

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MINNESOTA

3 FOURTH DIVISION

4 -----
United States of America,
5 Plaintiff,

6 and
State of Minnesota, by its
Attorney General Warren Spannaus,
7 its Department of Health, and
its Pollution Control Agency,
8 Plaintiff-Intervenor,
vs.

9 Reilly Tar & Chemical Corporation;
Housing and Redevelopment authority
10 of Saint Louis Park; Oak Park
Village Associates; Rustic Oaks
11 Condominium Incorporated; and
Philip's Investment Company,
12 Defendants.

Civil No.
4-80-469

13 and
City of Saint Louis Park,
Plaintiff-Intervenor,
14 vs.

15 Reilly Tar and Chemical Corporation,
Defendant.

16 and
City of Hopkins,
Plaintiff-Intervenor,
17 vs.

18 Reilly Tar & Chemical Corporation,
Defendant.
19 -----

US LPA RECORDS CENTER REGION 5



512903

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21 The Deposition of WILLIAM BAUER, taken
pursuant to Notice of Taking Deposition, taken before
22 Kirby A. Kennedy, a Notary Public in and for the County
of Hennepin, State of Minnesota, taken on the 2nd day
23 of May 1983, at 1900 First Bank Place East Minneapolis,
Minnesota, commencing at approximately 10:40 o'clock
24 a.m.
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APPEARANCES

DENNIS M. COYNE, ESQUIRE, and STEPHEN SHAKMAN, ESQUIRE, Special Assistant Attorneys General, 1935 West County Road B2, Roseville, Minnesota 55113, appeared for and on behalf of Plaintiff-Intervenor, State of Minnesota.

KATHLEEN MARTIN, ESQUIRE, of the law firm of POPHAM, HAIK, SCHNOBRICH, KAUFMAN and DOTY, LIMITED, 4344 IDS Center, Minneapolis, Minnesota 55402, appeared for and on behalf of Plaintiff-Intervenor, City of Saint Louis Park.

MICHAEL J. WAHOSKE, ESQUIRE, of the law firm of DORSEY and WHITNEY, 2200 First Bank Place, Minneapolis, Minnesota 55402, appeared for and on behalf of Defendant Reilly Tar and Chemical Corporation.

THOMAS E. REIERSGORD, ESQUIRE, of the firm of YNGVE & REIERSGORD, Attorneys at Law, 6250 Wayzata Boulevard, Minneapolis, Minnesota 55416, appeared for and on behalf of Defendant, Reilly Tar and Chemical Corporation.

JOSEPH C. VESELY, ESQUIRE, of the firm of VESELY, OTTO, MILLER & KEEFE, Attorneys at Law, Suite 203, Northwestern Bank Building, Hopkins, Minnesota 55343, appeared for and on behalf of Plaintiff-Ingervenor, City of Hopkins.

ROBERT E. LEININGER, ESQUIRE, Enforcement Attorney, 230 South Dearborn Street, Chicago, Illinois 60604, appeared for and on behalf of the United States Environmental Protection Agency, Region V, Plaintiff, United States of America.

DAVID HIRD, ESQUIRE, Trial Attorney, Department of Justice, 10th Street and Penn Avenue, Washington, D.C. 20530, appeared for and on behalf of the United States of America.

DAVID C. McDONALD, ESQUIRE, of the firm of BRIGGS & MORGAN, Attorneys at Law, 2200 First National Bank Building, Saint Paul, Minnesota 55101, appeared for and on behalf of Carl Bolander & Sons.

WILLIAM BAUER,

the Witness in the above-entitled
matter after having been first duly
sworn deposes and says as follows:

CROSS-EXAMINATION

BY MR. WAHOSKE:

Q. Could you state your name and spell it for
the record, please?

A. Bill Bauer, B-a-u-e-r.

Q. What's your current address, Bill?

A. 1990 Fernwood.

Q. Where are you employed?

A. Carl Bolander & Sons.

Q. How long have you been there?

A. Since January of 1965.

Q. Have you had your deposition taken before?

A. No.

Q. The process we will be taking, as you have
probably been able to tell by watching Ken's, is that
we have to ask oral questions, and then I will need an
oral response from you. So a nod of the head won't get
on the record. If you could say yes or no or whatever
you need to say --

A. Okay.

4
1 Q. If you don't understand a question that I am
2 asking you, please feel free to stop me and tell me
3 that you don't understand the question before answering.
4 If you do answer, I will assume that you have
5 understood the question I have asked. Is that all
6 right?

7 A. Okay.

8 Q. Could you give us briefly your work history
9 before you joined Bolander, or was that your first job?

10 A. No, I worked for my cousins as just a laborer
11 on building salvage, you know, stripping buildings out
12 of good lumber and stuff like that.

13 Q. What have you done at Bolander from '65 to
14 the present? What jobs have you occupied?

15 A. Well, I started work there as a laborer, and
16 then I went to operating heavy equipment, and most of
17 that has been done -- you know, the heavy equipment
18 work has been done on demolition.

19 Q. Do you have any supervisory authority or a
20 supervisory position, field foreman, or anything like
21 that at Bolander?

22 A. Job foreman.

23 Q. How long have you had that position?

24 A. I think I started in -- I think it was '68.
25 1968.

1 Q. Could you tell us generally what sort of work
2 Carl Bolander & Sons does?

3 A. Well, demolition, excavating, piling,
4 recycling concrete. That's about it.

5 Q. Did you participate yourself in the
6 demolition of the old Reilly Tar & Chemical site in the
7 early 1970's in Saint Louis Park?

8 A. Right.

9 Q. What participation did you have in that?

10 A. I was, I guess, working foreman.

11 Q. What did that involve?

12 A. Well, I was --

13 Q. What responsibilities, et cetera?

14 A. Well, more or less in charge of the men doing
15 the actual work on the site.

16 Q. Were you there daily?

17 A. Yes.

18 Q. Was anyone else there supervising at the time
19 when you went?

20 A. No. I was there just about eight hours a day.

21 Q. Had Bolander done any sort of demolition work
22 similar to the Reilly work before it was hired to do
23 the Reilly work?

24 MR. McDONALD: I might just object to
25 that. I guess I would object whether or not he had

1 knowledge of that. Could you be more specific in your
2 question?

3 BY MR. WAHOSKE:

4 Q. Of course. To your knowledge has Bolander
5 done any sort of demolition work similar to the type of
6 work it was asked to do at the Reilly project before
7 the Reilly project?

8 A. I don't know.

9 Q. Who would know?

10 A. Ben Longman.

11 Q. Have you ever participated in any projects
12 similar to the Reilly one before you did the Reilly one?

13 A. As far as site demolition you mean?

14 Q. Yes, of that size.

15 A. No, not that size.

16 Q. Had you ever participated in any demolition
17 projects that involved a site where creosote or
18 petroleum oil or anything similar to that had been at
19 the site?

20 MR. McDONALD: I guess I would object to
21 that just on the basis I don't like "anything similar"
22 to creosote or oil. That's probably a question but I
23 don't know what those other things may mean.

24 BY MR. WAHOSKE:

25 Q. I will rephrase the question towards creosote

7
1 oil and petroleum products.

2 A. Not that I recall.

3 Q. Have you done any since the Reilly project?

4 A. I think, yes.

5 Q. What would that be?

6 A. B. F. Nelson Roofing.

7 Q. When was that project?

8 A. I would say about -- I am guessing, but I
9 would say about in '76 or '78.

10 Q. In what way did that involve creosote or
11 petroleum products?

12 A. Well, that -- because of what they made.
13 They made roofing shingles, and that had different
14 types of chemicals like tar. Mostly tar I think.

15 Q. Where was that project?

16 A. I don't know. I can't remember the exact
17 address.

18 Q. That's all right.

19 A. Northeast Minneapolis.

20 Q. When did you yourself first become involved
21 with the Reilly project?

22 A. The exact month I don't recall; but I would
23 say from the start of -- actually starting.

24 Q. Started the work?

25 A. Right.

1 Q. Were you involved at all in any discussions
2 as to how the work should be done before the work
3 actually began?

4 A. No.

5 Q. The first that you did was basically when the
6 work started?

7 A. Yes.

8 Q. Who was involved from Bolander in terms of
9 prework discussions?

10 A. I would say Kenny Moe and Ben Longman.

11 Q. What would Ken Moe's involvement have been,
12 roughly?

13 A. Well, I guess discussing where we were going
14 to start and probably how they were going to do it. I
15 don't know.

16 Q. How did you find out where you were going to
17 start and how you were going to do it?

18 A. Through Ben Longman and Kenny Moe.

19 Q. What did they tell you? Do you remember?

20 A. Not right off, no. If I remember I think we
21 started cutting on some of the empty tanks, steel tanks,
22 above ground.

23 Q. Let me refer first then to a couple of things.
24 First, we have on the board here what has been marked
25 previously as Reilly Tar Deposition Exhibit Number 1,

1 and I will also refer to -- in the materials I have
2 previously received from counsel which you have
3 provided us today pursuant to subpoena duces tecum,
4 there is also another map of the Reilly site which it
5 appears to me is basically the same map which is Reilly
6 Tar Exhibit 1, the difference being that Reilly Tar
7 Exhibit 1 has handwriting on it and some numbers and
8 buildings and things like that colored in.

9 MR. WAHOSKE: I will ask you to mark this
10 as whatever number we are up to now.

11 (At this time RTC Deposition Exhibit
12 115 was marked for identification by the
13 Court Reporter.)

14 BY MR. WAHOSKE:

15 Q. Bill, what I am handing you now is what is
16 marked as Reilly Tar Exhibit 115. Could you identify
17 that for us? Let me help you out by starting to say
18 that that is a copy of the map which counsel has
19 provided to me earlier as one of the documents handed
20 over by you today in response to the subpoena.

21 A. Okay.

22 Q. Does that appear to you to be a map of the
23 Reilly site?

24 A. Yes.

25 Q. And comparing that to Reilly Tar Exhibit 1,

1 which has been previously put in and is on the board,
2 would you say it's substantially the same with the
3 differences I have already mentioned?

4 A. Yes.

5 Q. Now, you said that the first --

6 (At this time a discussion was held off the
7 record.)

8 MR. WAHOSKE: Back on the record.

9 BY MR. WAHOSKE:

10 Q. Were you the main person in charge at the
11 site of the Reilly project?

12 A. As far as --

13 Q. As far as day-to-day operations?

14 A. Yes.

15 Q. How did you determine or how were you told as
16 to what to do when at the site? Was there a plan you
17 were working from or --

18 A. No, mostly right under Ben Longman and Kenny
19 Moe. From time to time they would come out, and they
20 would say when we got done working where we were, what
21 we were going to do next.

22 Q. So it was either Longman or Moe or both who
23 instructed you what to do when?

24 A. Right.

25 Q. Could you tell us as best you remember it

1 what you did when starting with the first project you
2 had out there when you came onto the site? What was
3 the first thing you did in terms of demolition?

4 A. If I remember correctly, I believe we started
5 on these group of tanks, 1 through 9.

6 Q. These would be the tanks that are located
7 south of the refinery building, and they are labeled I
8 believe 1 through 9?

9 A. Yes.

10 Q. How did you dispose of those?

11 A. They were cut into pieces of steel that would
12 fit into a truck and hauled to the scrap yard.

13 Q. What was inside those tanks when you first
14 started to work on them?

15 A. Well, there was like -- almost like a solid
16 left on the bottom of them from settling, I guess you
17 would call it.

18 Q. Was there any liquid left in any of those
19 tanks?

20 A. No, that was Reilly Tar and Chemicals part of
21 the agreement, as far as I know, was they had to remove
22 all the product from all the tanks.

23 Q. Did you ever see the agreement that was
24 struck between Bolander and Reilly Tar & Chemical?

25 A. Not -- no. I think -- well, I guess I had

1 seen it from Ben Longman when we discussed, you know,
2 at what time we were going to do different parts of the
3 demolition.

4 Q. If I could find for you a copy of that it
5 might help us to refer to what you did when to see what
6 the agreement was.

7 MR. McDONALD: To clarify the last
8 question, could we ask sort of a time frame question?
9 I am a little bit unclear about whether the last answer
10 referred to whether he had ever seen the agreement or
11 whether he had actually seen the agreement during his
12 work on the site.

13 MR. WAHOSKE: It strikes me maybe I
14 should show him the agreement, and maybe we can worry
15 about it from there.

16 (At this time RTC Deposition Exhibit
17 116 was marked for identification by the
18 Court Reporter.)

19 BY MR. WAHOSKE:

20 Q. I am going to hand you, Bill, what has been
21 marked as Reilly Tar Exhibit 116. I might say that is
22 another copy of the document that I believe was also
23 provided by you in advance. That particular copy is
24 one made from our files; but I believe it to be
25 identical to the one produced by you in the subpoena.

1 I will ask if you have seen that agreement before?

2 A. I have seen it, yes.

3 Q. Do you recall when you would have first seen
4 it?

5 A. No.

6 Q. Did you see it before you started physical
7 work out on the site?

8 A. I don't believe so.

9 Q. Did you see it while you were working on the
10 site?

11 A. Yes.

12 Q. Did you take your instructions as to what to
13 do from this agreement or from someone else, from
14 another person?

15 A. No. I took my orders, I guess, from Kenny
16 Moe and Ben Longman.

17 Q. Do you know if they were following this
18 agreement as to what was to be done?

19 A. I believe they -- yes, I think they were
20 because Ben would -- in explaining what we were going
21 to do, he would be referring to this.

22 Q. Now, in reference to that, you said that the
23 first project that you can recall doing was the
24 demolition of the tanks that were involved south of the
25 refinery building?

1 A. Yes, yes.

2 Q. Let's go back to that.

3 A. All right.

4 Q. You said when you got to them, as I recall,
5 they had some solid substance at the bottom of them but
6 that the liquid had been removed?

7 A. Yes.

8 Q. And that, to your understanding, was part of
9 the agreement between Reilly and Bolander?

10 A. Yes.

11 Q. What did you do with the solid substance that
12 was in the bottom of those tanks?

13 A. It was hauled off the site.

14 Q. Do you know where it was hauled off to?

15 A. Some of it was hauled to another one of our --
16 to one of our dump sites, and we used it to make a road
17 out of it.

18 Q. What dump site would you have hauled it to?
19 Do you remember?

20 A. It was in South Saint Paul.

21 Q. Do you know what site exactly?

22 A. We call it the Concord dump.

23 Q. Why was it decided to haul it there?

24 MR. McDONALD: I am going to object to
25 these questions on the grounds of relevancy. I think

1 it's relevant to the extent that this material was
2 hauled off of the Reilly Tar site and out of the City
3 of Saint Louis Park; but I guess without some
4 explanation, I would object to further questions on
5 where the material was actually disposed of.

6 MR. WAHOSKE: Are you going to instruct
7 him not to answer?

8 MR. McDONALD: I guess I will unless you
9 want to provide me with how this will be relevant to
10 the case involving Reilly Tar and the United States
11 Government.

12 MR. WAHOSKE: Well, I think overall I am
13 going to be asking who made the decisions as to where
14 it was placed. It seems to me it's certainly relevant
15 as to our investigation from all standpoints as to what
16 was done with what, who made decisions with regard to
17 placing things at different points.

18 MR. McDONALD: I agree that's relevant.
19 I don't know if that's the question that's now before
20 the witness. You still haven't told me why it's
21 relevant to examine a witness on the actual disposal
22 site which he has already testified to being located in
23 South Saint Paul and not within the City of Saint Louis
24 Park.

25 MR. WAHOSKE: Well, I don't know that I

1 was going to go much further as to what happened at
2 that site. I was going to ask him who made the
3 decision as to who hauled it there.

4 MR. McDONALD: That question I wouldn't
5 object to.

6 BY MR. WAHOSKE:

7 Q. Who made the decision to haul it there?

8 A. I believe Ben Longman.

9 Q. Did you have anything to do with that
10 decision?

11 A. No.

12 Q. Just following Ben's orders?

13 A. Yes.

14 Q. Do you know if Ben made that decision or he
15 just told you where to haul it?

16 A. I don't know.

17 Q. Sounds like I need to ask Ben.

18 A. Pardon?

19 Q. It sounds like I need to ask Ben about that.

20 A. Yes.

21 Q. What else did you do then in the destruction
22 of those tanks that we have been talking about?

23 A. What do you mean?

24 Q. You said you cut them up and you hauled the
25 material from the -- the solid material that was in

1 there to a point that was off the site, the Concord
2 dump. What else happened to those tanks? What did you
3 do with the --

4 A. The steel?

5 Q. The steel.

6 A. That was hauled to a scrap yard.

7 Q. Do you remember where that was?

8 A. No, I don't.

9 Q. Was it in Saint Louis Park?

10 A. No.

11 Q. Do you remember the next project?

12 A. Not exactly.

13 MR. WAHOSKE: Well, just for the record,
14 Counsel, it's difficult, at least a little bit, to go
15 through at least in chronological order without having
16 those field logs and construction logs. I understand
17 if you don't have them, but if it was just a matter of
18 not having looked in the right places for them -- well,
19 it would be handy to have them. We will go along
20 without them if they don't exist.

21 MR. McDONALD: You haven't inquired of
22 this witness about his maintenance of any such logs and
23 whether or not he has made any search of his own
24 records for such logs.

25 MR. WAHOSKE: Well, that's true.

1 MR. McDONALD: I think, although Mr. Moe
2 wasn't absolutely sure that every room at the 100 room
3 office building that Bolander had to be searched, what
4 search he conducted turned up no other documents.
5 Perhaps it would be worthwhile to ask Mr. Bauer whether
6 or not he kept such logs and where they went to and
7 whether he has made any search.

8 MR. WAHOSKE: It's probably a good point
9 to do that, David.

10 BY MR. WAHOSKE:

11 Q. What sort of records did you keep as site
12 foreman for this project?

13 A. Like a daily logbook.

14 Q. What would go into that logbook?

15 A. Well, the names of the employees on the job
16 for that day and the hours that they had worked.

17 Q. Would there be any description of what was
18 done that day?

19 A. Somewhat, yes. On the bottom I would keep a
20 little bit of a log.

21 Q. Did you keep any other written records during
22 the course of the project?

23 A. No.

24 Q. Is this daily logbook something you would
25 normally keep as a job foreman out there?

1 A. Yes.

2 Q. What would happen to that during the job and
3 at the end of it?

4 A. Well, every day the log for that particular
5 day would be turned into the office with the employees
6 time cards.

7 Q. Do you know what happens to it after that?

8 A. No, I don't.

9 Q. Do you keep a copy of it?

10 A. I kept the carbon copy.

11 Q. With you at the site?

12 A. Pardon?

13 Q. Did you keep it with you at the site at the
14 time?

15 A. Yes.

16 Q. Do you have any idea where that carbon copy
17 is now?

18 A. No, no. I don't know.

19 Q. What would you normally do with it after a
20 job was done?

21 A. Well, we didn't -- I mean, my copy or logbook
22 would go from job to job to job. If that particular
23 book wasn't completed and that job was over, well, then
24 the next job I started on I just continue on with that
25 logbook.

1 Q. What would you do with a logbook when it was
2 filled up?

3 A. I used to keep some of them around at home,
4 and whether I have still got them I really couldn't
5 tell you. It's a long time ago.

6 Q. Were you asked to look for that logbook in
7 connection with this project?

8 MR. HIRD: Counsel, I am a little
9 unclear. When you are talking about "that logbook", do
10 you mean the carbon copy?

11 MR. WAHOSKE: That's a good question.

12 BY MR. WAHOSKE:

13 Q. Did you keep a carbon copy of the log books
14 at home?

15 A. Well, really I guess I would say in the truck
16 I had a box in there with different forms and time
17 cards for the employees and old log books, and after I
18 get two or three of them I just stash them at home, and
19 I remember a couple times throwing a lot of that stuff
20 away.

21 Q. Did you look for the carbon copy of this
22 particular logbook from the Reilly job prior to coming
23 here today?

24 A. No.

25 Q. Did anyone ask you to do that?

1 A. No, I don't believe so.

2 Q. Would you be willing to go back into and look
3 for that at some point after today?

4 A. Yes, I could. I will look but I doubt if I
5 have anything that old but I will look.

6 MR. WAHOSKE: Counsel, if you could help
7 us in case that he can find it.

8 MR. McDONALD: Maybe I can just ask one
9 question. Do you keep some of your records in your
10 garage or do you have some boxes or is that Ken that
11 kept some records in his garage?

12 THE WITNESS: Well, some of the old
13 folders and stuff like that I used to keep up in my
14 garage too.

15 MR. McDONALD: You didn't look through
16 those before coming to the deposition today, even a
17 couple months ago?

18 THE WITNESS: No.

19 MR. HIRD: Just for a matter of
20 clarification, the subpoena only referred to documents
21 in possession of Bolander & Sons, is that correct, Mr.
22 Wahoske?

23 MR. WAHOSKE: I believe that's correct.
24 We are just trying to find the documents.

25 MR. McDONALD: I don't think they exist.

1 I am sorry. I thought we had exhausted everything
2 possible.

3 MR. WAHOSKE: If it would be possible to
4 look through Bill's own records to see if he has got
5 the carbon of them, that would be helpful to us all.
6 BY MR. WAHOSKE:

7 Q. Do you know what happens to the original when
8 you turn it into the company?

9 A. They use it when they are doing the payroll,
10 as far as I know. I don't know what happens after that,
11 no.

12 Q. Do you know how long they are kept or
13 anything like that?

14 A. No.

15 MR. WAHOSKE: Well, maybe the best way
16 to proceed is to go down the list of parts of the
17 agreement that I have handed you which is Reilly Tar
18 Exhibit 116 I believe.

19 BY MR. WAHOSKE:

20 Q. If you could describe for us in each case
21 when I ask you about it what you remember having been
22 done, things like that, that might help us to move
23 along. Let's look at Number 1 which is on Page 2 of
24 116, small b, there before Number 1 says, "Work to be
25 done. The contractor shall provide for demolition,

1 removal and clean-up work on the property as follows:

2 1. Demolish all buildings, structures, and attachments
3 thereto to surrounding grade. Foundations and floors
4 are to be removed to grade or below." Do you recall
5 doing this sort of work at the Reilly site?

6 A. Yes.

7 Q. Do you remember a particular order to it or
8 did you just do what Ben told you to do?

9 A. No, pretty much what Ben -- in the order Ben
10 told us to do it.

11 Q. In general, do you remember the destruction
12 of any particular building, either with reference to
13 that or to the map?

14 A. Do you mean do I remember?

15 Q. How it was done. Would you be able to tell
16 us today? If I asked you for example the refinery
17 building, do you recall the demolition of that?

18 A. No.

19 Q. Could you tell us in general what you did
20 when it came to demolishing a building down to the
21 surrounding grade out at the Reilly site?

22 A. We used a crane and a clam bucket and a ball,
23 knocked it down.

24 Q. Would anyone go through it ahead of time to
25 remove salvagable material?

1 A. Salvageable stuff would have been taken out
2 by Reilly Tar & Chemical.

3 Q. Let's refer down to the next page of the
4 exhibit, Page 3, Item Number 9, "All salvagable
5 materials and fixtures located at the referenced site
6 shall be the Contractor's property as released by Owner
7 when not necessary for production except as to those
8 items listed on Exhibit "B" attached hereto." We won't
9 look at Exhibit B right now but do you recall anybody
10 going through on behalf of Bolander and removing items
11 before a building was destroyed?

12 MR. McDONALD: Maybe I will object to
13 that as being somewhat vague and indefinite. If you
14 could specify the items more clearly, I think there
15 were some items whose possession was retained by Reilly
16 Tar; but there was a lot of steel track and ties, and
17 that is material which I guess could be considered
18 salvagable materials that were taken off the site and
19 salvage value was gotten by Carl Bolander & Sons. When
20 you say items, do you refer to any type of fixture at
21 all, railroad ties, rails, or do you just refer to
22 specific fixtures in the building such as machinery?

23 MR. WAHOSKE: At this point, Dave, I was
24 asking the witness if he remembered in general on
25 behalf of Carl Bolander going through a building before

1 it was knocked apart. He said he would not tell -- he
2 could not tell me with regard to an individual building
3 so I was asking in general. That's all I was asking
4 about right now.

5 MR. McDONALD: Go ahead and answer that.
6 If you can't answer it, answer it to the best of your
7 knowledge.

8 A. The only thing that was salvaged, as far as I
9 know, was the ties and the rails. The rest of the
10 stuff was just hauled -- the steel was separated from
11 the brick and hauled to a junk yard, scrap yard. I
12 can't remember salvaging any of that stuff now.

13 BY MR. WAHOSKE:

14 Q. Well, let's go down item by item. Let's look
15 back on Page 2 of Reilly Tar 116. It says, "Remove
16 above and below grade tanks and demolish supporting
17 pads or legs to grade or below grade." Can you tell me
18 in general how that was done at the Reilly site?

19 A. Well, the tanks were cut up for the scrap
20 yard, and supporting pads were -- I think we just
21 balled them up, busted them up to a certain size and --

22 Q. And left them there?

23 A. Yes, everything below grade was left, yes.

24 Q. Were all of the tanks emptied of their
25 contents before you did anything to them?

1 A. Yes, as far as I can tell.

2 Q. Do you recall any that weren't?

3 A. No.

4 MR. HIRD: Excuse me, counsel. Did you
5 say empty or emptied?

6 MR. WAHOSKE: Emptied.

7 BY MR. WAHOSKE:

8 Q. Was there anything in the tanks before you
9 started to work on them?

10 A. I guess you would call it the settling or
11 whatever.

12 Q. Residue on the bottom of some sort?

13 A. Right.

14 Q. What did you do with the residue on the
15 bottom of the tanks?

16 A. Well, some of it was mixed with brick to be
17 hauled out because it would be in kind of a doey stage
18 like, and so that was mixed with either dirt or brick
19 and loaded on the trucks and hauled off the site.

20 Q. Who did the mixing?

21 A. I did.

22 Q. Why?

23 A. Well, so it wouldn't run out of the tailgates
24 of the dumptrucks.

25 Q. That type of material was hauled out by dump

1 truck then?

2 A. Yes, dump truck and dump trailers.

3 Q. Do you recall where that would be taken?

4 A. Some of it was taken to -- I believe it was
5 up by Anoka to a dump up there, and some of it was
6 taken to the Concord dump for base on the road.

7 Q. Do you know what dump in Anoka?

8 A. I don't remember.

9 Q. Do you know where any others of it was taken
10 besides the Concord dump or the dump in Anoka?

11 A. To my knowledge, that's the only two places
12 it was taken.

13 Q. Do you know why it was taken to either of
14 those two?

15 A. The stuff hauled down to the Concord dump was
16 put on the road to make a better road in there for our
17 trucks.

18 Q. But I mean who told you where to send it?

19 A. Ben Longman and Kenny Moe.

20 Q. That was never a decision that you made?

21 A. Pardon?

22 Q. It was not a decision that you made?

23 A. No.

24 Q. Did they tell you in general, "Send this here
25 or there," or did they tell you by specific load?

1 A. No, by general. The way the stuff was mixed,
2 if it was like a thick mixture of tar and stuff, well,
3 that would go to be put on the road, and the other
4 stuff was sent to the one out -- I think it was by
5 Anoka. That wouldn't be very good for making a road.

6 Q. Is there anything else about the destruction
7 of the tanks that you remember other than removing the
8 residue, cutting up the steel, hauling that off site?

9 A. Nothing with the exception that there was one
10 below ground tank I remember that was -- had too much
11 stuff in it, you know, to try to even get it out of the
12 tank. So we loaded the entire tank in one piece onto a
13 truck and hauled that out.

14 Q. Do you know where that went?

15 A. Same place up there by Anoka, if I remember
16 right, that particular dump.

17 Q. Do you recall which tank that was or where it
18 was located from one of the maps?

19 A. It seemed to me, the best I can remember it,
20 was somewheres out along the dock area someplace. The
21 tank was like an old railroad tank car like.

22 Q. And it was underground?

23 A. Right.

24 Q. So you lifted the whole thing and hauled it
25 off the site?

1 A. Yes.

2 Q. Again, did you make the decision to do it all
3 in one piece or how did that come about?

4 A. Well, when we -- or I looked in there, and I
5 seen how much stuff was in there. I discussed it with
6 Kenny and Ben, and they said, "Well, we will just
7 dispose of it in one piece."

8 Q. Do you recall what sort of stuff was in there?

9 A. It was like solid tar, as near as I can
10 remember.

11 Q. Did anyone tell you what the tank was used
12 for?

13 A. No.

14 Q. Maybe this might be a point to ask. Were
15 there Reilly people on the site during the time of the
16 demolition?

17 A. Yes. In fact, part of the plant was still in
18 operation while we were doing some of the demolition.

19 Q. Do you remember what part was in operation?

20 A. Well, the part over where the boiler room was
21 because the steam lines and stuff I know were all still
22 being used.

23 Q. Now, did you use the steam lines for anything?

24 A. Right. We used some for cleaning the tanks
25 where we would make our cuts with the torches.

1 Q. How would you do that? How would you use the
2 steam to clean the tanks?

3 A. Well, we had hose that we hooked onto the
4 steam lines, run that over to the tank area where we
5 were working and we had like steam nozzles and used
6 that to clean the hardened tar and this type stuff,
7 blow it away so you can cut through it with a torch.

8 Q. Is that the only way that you used the steam,
9 to drain the tanks?

10 A. Uh-huh.

11 Q. Just to clean them from the place that you
12 were cutting?

13 A. Yes.

14 Q. You didn't use them to clean the insides out?

15 A. No.

16 Q. Did the Reilly people supervise the
17 demolition that you were involved with or was that --
18 well, I will leave it at that. Did the Reilly people
19 who were still on the site or any other Reilly people
20 supervise the demolition?

21 A. You mean in regards to the methods that we
22 used to --

23 Q. In any way.

24 A. No. The only -- well, I don't know.

25 MR. McDONALD: Why don't you start over

1 again and just explain. Talk about how one Reilly Tar
2 employee became a Bolander employee and his involvement
3 in this.

4 BY MR. WAHOSKE:

5 Q. Go ahead and tell us about that.

6 A. Well, there was salvage items that Reilly Tar
7 & Chemical wanted off the site, and I didn't -- wasn't
8 at all familiar with the equipment or stuff that they
9 wanted. So Reilly Tar & Chemical had one employee that --
10 well, he is now working for us. He had been with the
11 company I don't know how many years; but he was
12 familiar with the whole plant. So if we were to wreck
13 a building like the refinery building, for example, if
14 there was something on their salvage list that they
15 wanted, I would ask him, you know, what they wanted and
16 he cooperated and worked with us real good.

17 Q. Who was that person?

18 A. Oh, Gordy Ess, E-s-s.

19 Q. And he is currently working for Bolander?

20 A. Yes.

21 Q. Did he start with Bolander after this project
22 or during this project?

23 A. He was working there as an employee yet when
24 we started there, and after Reilly Tar & Chemical
25 completely shut down and he was no longer on their

1 payroll, then I hired him to work as a laborer for us.

2 Q. Do you know roughly when that was during the
3 course of the demolition?

4 A. No. It was sometime in '72 after Reilly shut
5 down completely.

6 Q. In the fall, spring, summer?

7 A. I would say late summer or early in the fall.

8 Q. Is he the one then who would go through and
9 actually take out the equipment or did your people do
10 that, the equipment that Reilly was going to keep?

11 A. Whatever Reilly wanted they took out. We had
12 nothing to do with it.

13 Q. What was Gordy's involvement then as you were
14 saying?

15 A. Well, he was just -- well, he would answer
16 any question I had in regard to, you know, if it was
17 something that they wanted or if it was just junk.

18 Q. This is before you would knock a building
19 down?

20 A. Yes.

21 Q. You would ask him what's in there?

22 A. Yes, "Have you got everything out of here
23 that belongs to Reilly," and that sort of thing.

24 Q. Okay. Other than Gordy Ess, were there other
25 Reilly people who supervised in any way the demolition?

1 A. Not the demolition, no. As far as answering
2 some of my questions, there was a Warren Barton, I
3 believe. He answered questions that we would have.

4 Q. Do you recall what kind of questions he would
5 answer?

6 A. I don't remember.

7 Q. Anyone else you can think of?

8 A. No.

9 Q. Did any Reilly people inspect the demolition
10 work that you had done at any time after you had done
11 it that you can recall?

12 A. Well, I don't know if you would call it
13 inspecting; but they were there on a daily basis, you
14 know, and they could see the progress we were making.

15 Q. Do you recall them making any comments about
16 what you had done?

17 A. No, I don't remember any.

18 Q. Do you remember if there were people from the
19 City of Saint Louis Park who were present during any of
20 your demolition?

21 A. There was a City of Saint Louis Park pickup
22 that would come in there occasionally.

23 Q. What would it or the people in it do?

24 A. Mostly just drive around. Sometimes he would
25 get out of the pickup and walk around on the site.

1 Q. Do you know who it was?

2 A. No, I don't.

3 Q. Same person each time?

4 A. As far as I can remember, yes.

5 Q. Was it a frequent or infrequent occurrence?

6 A. Well, you would never know, you know, when he
7 was coming. It wasn't like a daily basis.

8 Q. Not every Tuesday?

9 A. No, it was nothing like that.

10 Q. Was it several times during the course of the
11 project, weekly or --

12 A. It depended on the areas I guess we were
13 working. There was times when he would come just about
14 every day, and then sometimes, depending on where we
15 were working, we wouldn't see him but maybe only once a
16 week.

17 Q. Which areas that you were working on did he
18 tend to come more frequently?

19 A. It would be around the -- I think it was
20 around the tank area.

21 Q. Principally these tanks south of the refinery?

22 A. Right.

23 Q. Any other tank areas that you remember?

24 A. Not that I recall. And then I remember when
25 we were -- the demolition was about done and we were

1 doing a lot of site cleaning, grading and this sort of
2 stuff. He would come out and drive around and that
3 sort of thing.

4 Q. Do you remember what time of year that was?

5 A. That was towards the fall, late in the fall
6 as I remember. In fact, the snow came before we got
7 done in '72. So we had the final clean-up -- we
8 finished the next spring after the snow melt.

9 Q. Do you remember when you did finish, what the
10 date was?

11 A. No, not the date.

12 Q. Or the month?

13 A. I know we were -- it seemed to me Bolander
14 was to get done just as soon as possible, and I know we
15 wanted to because-- to get the money that was due to
16 the company.

17 Q. Do you remember why Bolander was to get done
18 as soon as possible besides getting paid?

19 A. No. That's just company policy. Any job
20 that we do, you know, we try to get done as soon as
21 possible so they get their money, as far as I know.

22 Q. Let's go back to Reilly Tar Exhibit 116.

23 Point Number 3 on Page 2, "Remove all railroad rails
24 and ties together with associated docks or other
25 structures to surrounding grade or below. Loading dock

1 and tar well structures are to be removed to the piling
2 level, other pile caps, if any, not included." Do you
3 recall where the railroad ties and rails were removed
4 to?

5 A. They went all over.

6 Q. Were these ties ones that were part of the
7 railroad beds that were out there or were they ties
8 that were waiting in the yard for shipment somewhere?

9 A. No, these were ties that the rails sat on.

10 Q. Do you recall doing anything with ties that
11 were maybe piled there separately?

12 A. No, that was all Reilly Tar and Chemicals.

13 Q. Referring again to Reilly Tar 116, Page 2,
14 Number 3, the second sentence, "Loading dock and tar
15 well structures are to be removed to the piling level,
16 other piling caps, if any, included." Do you recall
17 the demolition of the loading dock and the tar well
18 structures?

19 A. I remember the wrecking of them, yes.

20 Q. Would you describe how that occurred?

21 A. Well, to the best of my knowledge there was
22 some thick dried-up tar in the bottom of the cistern,
23 and that we hauled off the site with trucks.

24 Q. Do you remember where that went?

25 A. Well, it was either one of the two dump sites.

1 Q. Do you know whether material was taken from
2 the site that would be the type of material that we
3 have been talking about that went to either of these
4 two sites? The tarry sort of material, was that taken
5 anywhere else besides these two sites?

6 A. Not to my knowledge, no.

7 MR. SHAKMAN: Counsel, may I ask a
8 question for clarification? When the agreement refers
9 to tar well, you mentioned tar cistern, are those one
10 in the same to you?

11 THE WITNESS: I am assuming that's what
12 they were talking about.

13 BY MR. WAHOSKE:

14 Q. Are you thinking of this structure that's
15 numbered -- it looks like Number 90?

16 A. Yes.

17 Q. On Reilly Tar number --

18 A. 115.

19 Q. 115?

20 A. Yes.

21 Q. Other than hauling that material, what did
22 you then do with the tar well or cistern?

23 A. Well, after it was cleaned out, all the walls,
24 and busted up, the concrete, and it was left on the
25 site, as far as I recall.

1 Q. How did you clean it out?

2 A. With a trackavator, loader.

3 Q. Was it liquid or solid material left in it?

4 A. It was real thick, like bread doe.

5 Q. What sort of bottom was there on it?

6 A. It had an old concrete floor on it.

7 Q. Did you clean it down to the concrete floor?

8 A. Yes.

9 Q. How clean was it when you knocked the walls
10 down?

11 A. It was as clean as you could get it with a
12 machine.

13 Q. Was there some residue left?

14 A. There might have been -- yes, a little stuck
15 there I suppose on the bottom.

16 Q. What about the loading dock area? Do you
17 remember how that was demolished?

18 A. That was just balled up real fine and left on
19 the site. That was like a concrete slab, yeah, just
20 busted up and left on the site.

21 Q. Anything to haul away from that area?

22 A. Not that I -- might have been. The piling
23 that it sit on, I think we hauled that stuff away.

24 Q. Do you know where that type of material would
25 have been taken?

1 A. One of the two dumps.

2 Q. Let's take a look now at Reilly Tar Exhibit
3 116, Number 4, Page 2: "Remove above grade piping,
4 poles, walls and miscellaneous structures." Do you
5 remember the piping that ran through the plant?

6 A. I can recall some of it, yes.

7 Q. Do you recall how that was demolished and
8 disposed of?

9 A. That was cut down, loaded out and hauled to a
10 dump.

11 Q. Was there anything inside the piping when you
12 were demolishing it?

13 A. Some of it had tar in it.

14 Q. Again, what did you do with that tar?

15 A. That was hauled to the dump.

16 Q. One of these two?

17 A. Right.

18 Q. What did you do with the piping itself?

19 A. That was hauled to the dump.

20 Q. Not salvaged?

21 A. No.

22 Q. Why wouldn't you have salvaged it?

23 A. Well, it wasn't worth the labor cutting it up,
24 Number 1.

25 Q. Do you know what poles or walls are referred

1 to there?

2 A. Poles, I am assuming, that might have been
3 the power line poles.

4 Q. Do you remember taking those down?

5 A. Uh-huh.

6 Q. And walls would be just anything?

7 A. Anything, yes.

8 Q. Let's go down to the next one, Number 5, the
9 same place: "Break open tunnels, pits, basements and
10 cellars to the extent that they are known to the Owner
11 and remove the below grade piping or machinery exposed
12 and the work." How did you know which ones to break
13 open? Did someone point out to you where they were?

14 A. Yes.

15 Q. Do you remember who did that?

16 A. Gordy Ess if I remember right.

17 Q. What did you do with those?

18 A. They were loaded out and hauled to the dump
19 also.

20 Q. Was there material in any of the tunnels,
21 pits, basements or cellars?

22 A. In them?

23 Q. Yes.

24 A. You mean other than the piping?

25 Q. Yes.

1 A. Not that I can recall.

2 Q. How about the floors of the tunnels? Do you
3 remember what they were like?

4 A. No, I don't. I don't know if they were even
5 concrete or -- I don't remember. We just used the
6 crane or the clam bucket and cleaned them out.

7 Q. What was in them?

8 A. Cleaned them out.

9 Q. What was in them, just the piping?

10 A. Uh-huh.

11 Q. Was there dirt around the piping or anything
12 else?

13 A. Not that I recall.

14 Q. What did you do with the tunnels after you
15 took the piping out?

16 A. Busted them up and just left them. They were
17 filled in with dirt.

18 Q. Where did you get the dirt from?

19 A. Off the site.

20 Q. Do you remember about where?

21 A. There was two areas. Up until the office was
22 demolished, which would have been then, there was a --
23 I guess you would call it a borrow pit or a bank back
24 over here.

25 Q. Back over there would be generally to the

1 north and west of the main part of the plant?

2 A. Yes, northwest -- west part of the property.

3 Q. By a borrow, could you describe what that was
4 like?

5 A. Well --

6 Q. That area?

7 A. Well, it was just a bank, a high bank that we
8 would take the dirt from.

9 Q. Just a bank of dirt?

10 A. Yes.

11 Q. Why did you take it from there, do you
12 remember? I mean, did someone tell you to take it from
13 there?

14 A. Yes, we could take it from there.

15 Q. Do you remember who told you to do that?

16 A. No, I don't.

17 Q. Would it have been Ben Longman or a Reilly
18 person?

19 A. No, sir. It would have been Ben that told me
20 to take it from there.

21 Q. What sort of machinery would you have exposed
22 in breaking these things open?

23 A. Machinery?

24 Q. Tunnels, pits, basement and cellars referred
25 to there in Number 5.

1 A. Just piping, as far as I can remember.

2 Q. Pumps, do you remember offhand?

3 A. I don't recall any.

4 Q. Let's go on to Number 6. You have partially
5 answered that already I suspect. "Fill basements,
6 cellars, pits and tunnels, and low areas with small
7 masonry and earth materials from the site." You
8 mentioned there was another site, as I recall, that you
9 got fill from besides that bank?

10 A. Yes.

11 Q. Do you remember where that area was?

12 A. I believe that's office building Number 1.
13 That's set on a hill, if I remember right, right in the
14 middle of the site.

15 Q. So that after that building was demolished,
16 you then took soil from that hill area?

17 A. Yes.

18 Q. Before that you took it from this other area?

19 A. Yes.

20 Q. Any other places?

21 A. Not that I recall, no.

22 Q. How did you fill these? I mean, what was the
23 finished product like when you were done? You would
24 fill a basement or a pit or a trench?

25 A. Like what do you mean? What it looked like

1 when we were done?

2 Q. Sure.

3 A. Like a golf course I guess you would call it.

4 Q. In other words, you filled them over with the
5 dirt, and then did you grade them down?

6 A. The entire site was graded.

7 Q. That would be at the very end?

8 A. Yes.

9 Q. Or did you grade as you were going along?

10 A. We would rough grade as we were going along;
11 but then the final clean-up, the entire site was graded.

12 Q. Look down to Number 7. "Dispose off the site
13 the demolition materials and debris not suitable for
14 fill outside of Saint Louis Park." Who made the
15 decision as to whether or not debris was not suitable
16 for fill?

17 A. Well, myself, Ben Longman, Kenny Moe. It was,
18 you know, quite simple. Decomposables, as I recall,
19 were removed from the site.

20 Q. What did that mean to you, decomposables?

21 A. Wood, iron, that's about it.

22 Q. Residue from the tanks?

23 A. Oh, yes, definitely.

24 Q. What sort of materials did you leave on the
25 site, did you regard as suitable for fill?

1 A. Brick, busted up concrete, that's about it.
2 A lot of the brick we hauled off mixing it with the
3 stuff from the bottom of the tanks to make it so we
4 could handle it.

5 Q. Now, Number 7 there says, "Dispose off the
6 site." Were those things disposed of in either of the
7 two dumps you have already mentioned?

8 A. Yes.

9 Q. Any other place?

10 A. Not that I know of.

11 Q. Do you know why it was said it was supposed
12 to be taken outside of Saint Louis Park?

13 A. I think it was either Ben or Kenny said
14 something about, you know, the stuff was to be taken
15 outside of Saint Louis Park.

16 Q. Do you remember what they said about it?

17 A. No.

18 Q. Or why?

19 A. No.

20 Q. Look at Number 8, same place, "Remove
21 container and piping residues and dispose of same at an
22 off site location outside of Saint Louis Park." Is
23 that what we have been talking about in terms of what
24 was inside the tanks or the pipes?

25 A. Yes.

1 Q. Is that the paragraph that refers to that?

2 A. Yes.

3 Q. Again, I think you have told me the two ways.
4 Were there any other places on the site that there
5 would have been container or piping residues besides
6 the tanks that you have talked about already or the
7 pipes?

8 A. Inside empty buildings? No, not that I can
9 recall.

10 MR. McDONALD: Counsel, maybe just a
11 point of clarification, when you say "the tank area,"
12 what area do you mean by that?

13 MR. WAHOSKE: Well, it seems to me,
14 maybe the witness can help me, we have been talking in
15 general about a nine or so tank area inside the
16 refinery and also some buried tanks.

17 BY MR. WAHOSKE:

18 Q. Is that correct?

19 A. Yes.

20 Q. One buried tank?

21 A. Yes.

22 Q. Were there any other buried tanks besides
23 that one that you hauled out in one whole piece?

24 A. No, outside of there was -- more like a pit.

25 Q. Where was this pit you are talking about? Is

1 that this retaining basin?

2 A. Yes.

3 Q. What did it look like before you started?

4 MR. HIRD: Excuse me, counsel. For
5 clarification when you say "retaining basin," are you
6 referring to what has been usually called the settling
7 basin or settling pond, which are actually two
8 different things.

9 MR. WAHOSKE: That's a good point, David.
10 Let's see if we can pin that down a little bit. I
11 don't think either of them are numbered on either of
12 our exhibits here but what I am asking the witness
13 about right now is labeled on Reilly Tar 1 as settling
14 retaining basin, and it is marked in green on Reilly
15 Tar 1. It is located, I would guess, just to the south
16 principally of what appears to be tank Number 7.

17 MR. HIRD: Obviously, of course, the
18 testimony has to be coordinated but I think my
19 recollection is that's what's generally been referred
20 to as the settling basin by other witnesses.

21 MR. COYNE: Off the record.

22 (At this time a discussion was held off the
23 record.)

24 MR. WAHOSKE: Let's go back on the
25 record.

1 BY MR. WAHOSKE:

2 Q. In the interim we have put up also another
3 easel, State Exhibit Number 9, which is a mylar drawing
4 labeled, as I understand from counsel from the State,
5 based on the map in Reilly Tar Exhibit 1, and at least
6 some of the labeling as well. Before we went off the
7 record I believe we were talking about something that
8 is marked on Reilly Exhibit 1 as the settling retaining
9 basin. Bill, I will ask you if that in your
10 recollection, what you were talking about, that is, is
11 also the same as what is marked as the settling basin
12 on Exhibit 9?

13 A. I believe it is.

14 Q. Now, what was that? What did it look like
15 when you started work on demolishing it?

16 A. As I recall, I believe it had plank sides on
17 it.

18 Q. Wooden plank?

19 A. Wooden plank around it, yes, and six or eight
20 feet wide, 15 to 20 or 30 feet long.

21 Q. What was in it, if anything?

22 A. It was full of -- well, it was like tar,
23 thick black material.

24 Q. How deep was it, the basin itself first?

25 A. Oh, I don't know. It could have been --

1 Q. Did it have a bottom?

2 A. 10 -- that's a good question, I don't know.

3 Q. What did you do in the course of demolishing
4 it?

5 A. We used the backhoe and cleaned it all out.
6 As we dug it, we loaded it on to trucks. This
7 particular stuff was -- well, it was a little hard to
8 contain so we had to use polyethylene across the
9 tailgates with sand so stuff wouldn't leak out of the
10 trucks.

11 Q. It was hard to contain because it was
12 somewhat liquid?

13 A. Yes.

14 Q. Do you remember where that was taken?

15 A. That was taken up north by Anoka at that dump
16 site, as far as I remember.

17 Q. How much material did you remove from that
18 basin, if you remember?

19 A. I don't recall how many trucks we had; but it
20 seems like we spent a day there with a backhoe and
21 several trucks.

22 Q. Do you remember how deep it was, the material?

23 A. Oh, I don't know. It might have been 10 or
24 15 feet, something like that.

25 Q. Maybe less, maybe more?

1 A. Yes, it could have been.

2 Q. Same sort of material all the way?

3 A. Yes.

4 Q. What did you recover on the bottom when you
5 cleaned it out?

6 A. Well, you started running into more -- well,
7 it's like soil.

8 Q. Do you remember that as having a soil bottom?

9 A. Well, I --

10 Q. Or do you remember?

11 A. I don't know. The entire structure might
12 have been all plank, I don't know, the sides and the
13 bottom. As you started cleaning it out, the plank
14 would tip in so you were getting, you know, those
15 boards would be -- it was kind of just all mixed
16 together so we were getting the bottom with the sides.
17 I don't know.

18 Q. What caused you to stop cleaning it out?

19 A. Well, started getting just into soil.

20 Q. So you had removed all of what you described
21 as that black tarry stuff?

22 A. Yes.

23 Q. What did you do when you had removed all of
24 that? What did you do with the basin itself?

25 A. Filled it back in. I don't remember now if

1 we used brick and masonry or if we used fill from the
2 site. I don't remember now.

3 Q. But at any rate you filled it in with
4 material from the site somewhere?

5 A. Yes.

6 Q. Again, we are talking now generally about --
7 I think it's Number 8, Reilly 116, "Remove container
8 and piping residues and dispose of same at an off-site
9 location outside of Saint Louis Park." Were there
10 other tanks involved besides the ones we have been
11 talking about south of the refinery building and the
12 one underground, and now we are talking also about the
13 retaining settling basin? Any others that you recall?
14 Perhaps some over here north of the treating retorts?

15 A. Oh, there might have been some sort of tanks.
16 I am not too sure. As far as the retorts, they were --
17 I suppose you would consider them a tank.

18 Q. How would you describe them? What did they
19 look like?

20 A. Well, they were probably 10 or 12 foot in
21 diameter. They laid horizontal on the ground. This is
22 where they -- I guess the product that he treated was
23 put into these and pressurized or whatever, and then
24 product was shoved out onto the dock and whatever, but
25 that -- they were real heavy thick steel.

1 Q. Do you recall the demolition of that area in
2 general?

3 A. I can kind of recall cutting it up, the tank
4 or cylinder, whatever. The only problem with it was it
5 was real thick steel; but as far as being dirty in
6 regard to the material on it, as I remember it, it
7 wasn't too bad. It was pretty clean stuff.

8 Q. Was there residue in those as well?

9 A. No, no. Just a narrow gauge rail track that
10 went right through.

11 Q. Through the center of the retort?

12 A. Yes.

13 Q. Anything on the bottom that had collected?

14 A. No, nothing to really speak of. There might
15 have been a few wood chips or sawdust or something like
16 that but it was relatively clean.

17 Q. Do you remember what you did with the metal
18 from those?

19 A. If I remember right, just about all the steel
20 from the entire project was loaded on railroad
21 gondolas, and it was shipped -- I don't know if it was --
22 I don't know, Chicago or Duluth or -- it was shipped
23 out anyways.

24 Q. Do you know why it was shipped where it was?
25 Were you just told to ship it somewhere?

1 A. I don't know why. I think the main -- well,
2 it was cheaper to load the stuff -- the steel on to
3 gondolas and haul it rather than haul it by truck.

4 Q. Any other tanks of any sort that you can
5 recall?

6 A. I think we -- no, I think we got about all of
7 them.

8 Q. Let's take a look at State Number 9,
9 referring to the refinery building area.

10 A. All right.

11 Q. You can see there are indications of a diesel
12 fuel tank next to the refinery building, some pitch
13 tanks, Number 20, 19 and 18 just south of the refinery
14 building. Are those tanks any different in the
15 demolition of them than the other tanks we have been
16 talking about?

17 A. They would all be just like 1 through 9.

18 Q. Same would go for the other tanks? We are
19 talking here north of the retort building on the
20 State's Exhibit 9 labeled "Tank, Tank, Pitch."
21 Anything you recall about those being different, the
22 demolition of those?

23 A. No.

24 Q. How about any tanks in the boiler room?

25 A. Tanks in the boiler room?

1 Q. Or were there any that you remember, tank
2 type structures?

3 A. No, unless there would have been a water tank
4 in there for the boilers. Otherwise I don't recall any,
5 no.

6 Q. How about just to the north and slightly west
7 of the refinery building on State's Exhibit 9? There
8 is some indications of road tar tanks. Do I recall
9 those at all?

10 A. I remember a group of tanks being there, yes.

11 Q. Do you remember the destruction of those?

12 A. No, outside of -- it seems like that was real
13 close to our steam source there if I remember right.

14 Q. Steam source would be this line?

15 A. Yes.

16 Q. Above ground piping line?

17 A. Yes. That's why we hooked on for our steam
18 for cleaning the steel to make our cuts with.

19 Q. Anything different about the destruction of
20 those tanks from the others you have described?

21 A. No, they were just --

22 Q. Did they have residue on the bottom?

23 A. No, these sat up on I think saddles. They
24 call them wood saddles. They were like -- well, I
25 don't know, 16 by 16 wood chunks like.

1 Q. So that they were basically emptied by the
2 time you got to them?

3 A. As much as I can remember, yes.

4 Q. Did you do anything with the pond area
5 indicated here on the State's Exhibit 9?

6 A. It seems to me toward the end -- well, not
7 the very end but somewhere, you know, well into the
8 demolition of it, we ended up filling that in with
9 masonry.

10 Q. Was there water in it or anything in it?

11 A. I can't recall if there was any water in it.
12 It seems to me the bottom or the sides of it was like a
13 gray clay or something like that, and it seems to me
14 when we filled that in we used some of the masonry, if
15 I remember right, from this Wheeler office, which was --
16 I don't know if that was -- that was like the second
17 part of the Reilly plant. It seemed to me that was an
18 extra or something. That wasn't included in the
19 original bid if I remember right.

20 Q. By the "Wheeler office" and the other area,
21 are you referring to an area north and east of the pond
22 that we have been talking about on all the various maps?

23 A. Yes, uh-huh.

24 Q. If you look on -- what's the number of that
25 exhibit right there?

1 A. 116.

2 Q. If you look at Reilly Tar Exhibit 115, a copy
3 of the map that you gave us today, that's indicated as
4 a written in building there, is that correct, it's an
5 office?

6 A. Yes.

7 Q. Is it your recollection that the pond is
8 filled in with debris from the destruction of that area?

9 A. Yes, the masonry from that, if I remember
10 right.

11 Q. What was in the pond before you filled it in?

12 A. As near as I can remember, unless it rained,
13 it was dry.

14 Q. Basically dry?

15 A. I think so.

16 Q. With this clay like --

17 A. Yes.

18 Q. Did it have a bottom that was different than
19 the sides?

20 A. Not that I remember, no.

21 Q. Again referring to Reilly Tar Exhibit 116,
22 the paragraph on the next page, Number 4. "This
23 contract for demolition, removal and clean-up work on
24 the property of the Owner shall not be applicable to
25 that part of the described property lying Easterly of

1 the Easterly right-of-way line of the proposed
2 Louisiana Avenue Extension, which right-of-way line is
3 shown in red on Exhibit "A" hereto." If you turn two
4 more pages, Bill, in that exhibit, Reilly Tar Exhibit
5 116 in front of you, I think there is a map that's
6 involved. Do you recall that differentiation in the
7 property between that part east of that line mentioned
8 in Paragraph 4 and the rest of the property?

9 A. What do you mean? Do I know the difference?

10 Q. Well, were you specifically told about
11 Paragraph 4 that we have referred to and did you, if so,
12 what?

13 A. Oh, yes, that was not part of the demolition
14 that we started with.

15 Q. Do you know what was over on that part of the
16 property?

17 A. There was like a big warehouse, Butler type
18 building, and an office building, and I don't know if
19 there was some type of a shed or what. That's about
20 all I can remember about it.

21 Q. Did you do any work on that part of the
22 property at all?

23 A. Before, yes. We demolished those buildings
24 too.

25 Q. At what point did you do that in the project?

1 A. I would say toward the end of the -- we were
2 just about done with the Reilly Tar & Chemical when
3 this was, I would say, released to us.

4 Q. Do you remember how that occurred? Who told
5 you you should go over there?

6 A. It was either Ben or Kenny.

7 Q. What relationship, in terms of official
8 position, did Ken and Ben, Ken Moe and Ben Longman,
9 have to you in relation to this project?

10 A. Well, I would say Ben was the estimator on
11 the job, and Kenny Moe was kind of like a -- well, the
12 job superintendent. He was over this job and different
13 ones at the same time.

14 Q. You take your marching orders from Ken?

15 A. Right.

16 Q. How did Ben fit into order-giving?

17 A. Well, I guess. Well, he bid the job, and he
18 had -- he did it more I guess the way he figured it on
19 the bid.

20 Q. Was that the standard way jobs were done?

21 A. Yes, right.

22 Q. So whoever was the estimator, the one who bid
23 the job, would sort of have --

24 A. Yes, if he had any question, you know, or if
25 you were in count after method you would ask him how

1 did he figure you would do it.

2 Q. And is it your recollection it was one of the
3 two of them that told you then to go on and take care
4 of that part of the project you have just been
5 referring to?

6 A. Yes.

7 Q. Do you remember how that demolition occurred
8 or what you found there?

9 A. It was nothing to it. It was just -- I think
10 we just knocked it down and loaded and hauled the stuff
11 out.

12 Q. What was there?

13 A. One of them it seems like had a brick
14 structure, and the rest was like tin and wood poles or
15 something.

16 Q. Just buildings?

17 A. Yes.

18 Q. No tanks or --

19 A. Nothing.

20 Q. Any tar material of any sort?

21 A. No, not that I recall.

22 Q. Creosote?

23 A. No.

24 Q. Let's look at Number 5 on 116, Paragraph 5 on
25 Page 3. "The Owner will identify all wells on the

1 premises and desires that they be left intact. The
2 Contractor agrees not to damage or interfere with said
3 wells and agrees to leave them intact; and the
4 Contractor agrees to leave the water main intact and in
5 an operable condition." Do you recall whether the
6 owner identified wells on the premises?

7 A. I am sure Gordy Ess would have.

8 Q. Do you recall any precautions taken by
9 yourself to keep those wells intact in the course of
10 your demolition?

11 A. No, I don't think so, not that I recall.

12 Q. Let's refer to State's Exhibit Number 9. Do
13 you recall there being a well just south of the
14 refinery building labeled on State's Exhibit 9,
15 Republic deep well?

16 A. I really don't recall that one, no.

17 Q. Do you remember whether there was any
18 equipment on the top of that well?

19 A. I don't remember that one at all.

20 Q. Do you remember doing anything different in
21 your destruction of those Tanks, 20, 19 and 18 on
22 State's Exhibit Number 9 or the refinery building, or
23 any other building in that area, to assure that that
24 well stayed intact?

25 A. Not that I recall.

1 Q. Do you remember seeing any wells on the
2 premises yourself?

3 A. That sugar beet well, it seems to me like
4 when you drive in there was something off on the left
5 side that was all by itself, which might have been the
6 well.

7 Q. Now, you are referring to what is marked on
8 State's Exhibit 9 as the sugar beet well roughly to the
9 south and slightly east of the pond area?

10 A. South and west.

11 Q. I am sorry, south and west of the pond area?

12 A. Uh-huh.

13 Q. Do you remember what was done with that
14 during the course of demolition?

15 A. No. We wouldn't have -- we didn't do
16 anything with any of the wells.

17 Q. Do you remember what condition they were in
18 when you started demolition?

19 A. No.

20 Q. Were they open?

21 A. I couldn't tell you. We had nothing to do
22 with the wells as far as I know.

23 Q. You think that Gordy Ess identified them for
24 you?

25 A. I am almost sure he would have, yes.

1 Q. Why would he have done that, if you know?

2 A. Why would he?

3 Q. Yes.

4 A. Because, if I remember right, they were to
5 take a pump or something from the well, and that was
6 part of their salvage.

7 Q. Which well would that have been?

8 A. I am not sure.

9 Q. Do you remember if they did that?

10 MR. McDONALD: Maybe a point of
11 clarification. We are referring to "they". I assume
12 you mean Reilly Tar or representatives of Reilly Tar?

13 THE WITNESS: Right. Reilly Tar.

14 MR. WAHOSKE: Thanks.

15 BY MR. WAHOSKE:

16 Q. Do you remember if they did that?

17 A. I don't recall, no.

18 Q. Do you have any recollection of what the well
19 was like after the pump was removed, if it was?

20 A. I couldn't tell you, sir.

21 Q. Do you remember the water main referred to in
22 Paragraph 5 we have been looking at?

23 A. Well, the only thing about a water main would
24 have been the fire hydrant that we filled our water
25 truck from.

1 Q. Did you do anything with that in the course
2 of demolition?

3 A. No, other than fill our water truck from the
4 fire hydrant.

5 Q. Sure. Did you have any problem with water on
6 the site during the course of the demolition?

7 A. With water --

8 Q. In the wet season, water standing around or
9 anything like that?

10 A. Not that I recall, no.

11 Q. Do you remember the rough starting date for
12 the site project, the month?

13 A. No idea.

14 Q. Spring perhaps, late spring?

15 A. Yes, I would say the spring.

16 Q. And you have said before you didn't actually
17 get finished until sometime in -- I guess what, the
18 spring or so of '73?

19 A. Yes.

20 Q. Do you remember why it took so long?

21 A. No, other than it was just a big job, and the
22 snow come, and in order to get the site I think cleaned
23 up to the liking of, I don't know, Saint Louis Park,
24 maybe it was Saint Louis Park and Republic Creosote,
25 but to get the entire site cleaned up. I think once

1 the snow come, we couldn't, you know, clean up all the
2 ties and stuff up so we had to go back in the spring
3 after the snow was gone.

4 Q. Do you remember after you were done with your
5 work on the site if anyone came and looked at it?

6 A. It seems to me either Kenny or Ben Longman
7 met with somebody and went over the site.

8 Q. Do you know who that person was?

9 A. No, no idea.

10 Q. Do you know who they represented, Saint Louis
11 Park?

12 A. No, I don't know. I am just assuming it was
13 somebody to --

14 Q. Okay the job?

15 A. Okay the job, right.

16 Q. That would have been in the spring of '83 or
17 '73 I mean?

18 A. '73, yes.

19 Q. You mentioned before that you recall a Saint
20 Louis Park pickup truck?

21 A. Uh-huh.

22 Q. Coming on periodically?

23 A. Uh-huh.

24 Q. Do you recall any times when representatives
25 of the State of Minnesota might have been on the site,

1 Health Department, Pollution Control Agency, anyone?

2 A. Not unless he would have been in Saint Louis
3 Park's City pickup.

4 Q. You don't particularly recall any?

5 A. No, no.

6 Q. Let's look at Reilly Tar Exhibit B. I am
7 sorry. It's labeled Exhibit B on Reilly Tar Exhibit
8 116. I think it's the last page of the exhibit you
9 have before you there. It says, "The following is a
10 list of property and equipment which the owner retains
11 ownership and remove from the premises." And then
12 there is a list of 13 different items. Do you recall
13 seeing this list at any time while you were on the
14 project?

15 A. I think I have. I might have had a list like
16 this.

17 Q. What did you use it for if you did?

18 A. Well, just kind of guidelines so we wouldn't --
19 in an area we were working, if they had stuff in there
20 that was salvage to them, that's kind of what I went by.

21 Q. Do you know if all the items on that list
22 were in fact removed by the owner from the premises?

23 A. I have no idea.

24 Q. Do you know of any that weren't?

25 A. No.

1 (At this time RTC Deposition Exhibit
2 117 was marked for identification by the
3 Court Reporter.)

4 BY MR. WAHOSKE:

5 Q. Bill, I am going to hand you what has now
6 been marked Reilly Tar Exhibit 117 and ask you if you
7 are familiar with that document?

8 MR. WAHOSKE: I would add for the record
9 that this is one of the documents provided by Bolander
10 & Sons today pursuant to the subpoena.

11 MR. McDONALD: As a point of
12 clarification, I don't know if there was a time
13 reference. Was the question whether or not he had seen
14 this document before?

15 MR. WAHOSKE: I think I asked was he
16 familiar with the document at all.

17 MR. McDONALD: Even if he became
18 familiar with it just a couple of weeks ago?

19 MR. WAHOSKE: Sure.

20 A. Yes, this is pretty much what we were to do.

21 BY MR. WAHOSKE:

22 Q. Do you know whose handwriting that might be
23 at the bottom that says Plan Sheet 2 refer to --

24 A. No, I don't.

25 (At this time RTC Deposition Exhibit

1 118 was marked for identification by the
2 Court Reporter.)

3 BY MR. WAHOSKE:

4 Q. I am now going to hand you what has been
5 marked as Reilly Tar Exhibit 118. I will ask you if
6 you are familiar with that document?

7 A. That would have been Republic Creosote's
8 salvage list.

9 Q. Is that the one you thought you might have
10 had with you during the time?

11 A. I think so.

12 Q. Do you know whose handwriting that might be
13 on the right-hand side?

14 A. No, I don't.

15 Q. You yourself don't recall whether Reilly Tar
16 took all these or not, is that what you were saying
17 before?

18 A. No, I don't.

19 Q. Look specifically down at Number 9 on Reilly
20 Tar Exhibit 118. Referring I guess to the very last
21 line there, it says, "One well pump located south of
22 Buildings 5 through 9." If I can refer back to the --
23 let's use State's Exhibit 9, the refinery building is
24 indicated on there. If you look at Reilly Tar
25 Deposition Exhibit Number 1 or on the map that's

1 labeled Reilly Tar Number 115, the one you gave us
2 today, I think the refinery building is labeled as 5
3 through 9, just to tie in all these exhibits together.
4 This is what we were talking about before where it's
5 indicated that there is a Republic deep well which is
6 located somewhat south of buildings 5 through 9. Is
7 that, if you remember, where the well pump was located?

8 A. I don't remember.

9 Q. Do you remember them taking a well pump at
10 all from anywhere?

11 A. No, I don't.

12 Q. Do you remember seeing one?

13 A. I remember something on the left going into
14 the site but I --

15 Q. That would be down in the vicinity of what we
16 have talked about before as being labeled the sugar
17 beet well?

18 A. Yes.

19 Q. On State's Exhibit 9?

20 A. Yes.

21 Q. Do you have any recollection of a well, in
22 the area just south of the refinery with or without a
23 pump on top?

24 A. I don't remember nothing over there.

25 Q. How far along did you get in the fall before

1 the snow came in terms of the demolition of the plant
2 site?

3 A. Well, I was just -- everything was gone, if I
4 recall, except just the general clean-up of the entire
5 site.

6 Q. What did that involve, general clean-up of
7 the entire site?

8 A. Just cleaning up what debris would have been
9 left and grading everything off.

10 Q. What sort of debris would have been left?

11 A. Well, like broken ties and just general
12 debris that would have been just left behind. If I
13 remember right, there might have been some piles of
14 railroad ties that were still on the site, used ties
15 that Bolander had for sale that weren't sold before the
16 winter.

17 Q. Were you involved in talking with anybody
18 about when to stop work for the winter?

19 A. I don't recall.

20 Q. Did you yourself, as opposed to Ben or Ken,
21 talk with anybody from Saint Louis Park or Reilly about
22 completion of the project?

23 A. No, I wouldn't have had nothing to do with
24 that.

25 Q. You just took your orders from Ben?

1 A. And Ken.

2 Q. And Ken. Do you remember them telling you
3 anything about how the project would be completed that
4 fall?

5 A. No, other than -- it seems like I remember or
6 we were -- I and Kenny, I believe, had a discussion
7 about, you know, it would just be impossible to clean
8 the site up -- to leave it, you know, suitable,
9 acceptable, until the snow was gone as far as finishing
10 it.

11 Q. What did you do to finish the site and when
12 did you do that?

13 A. The following spring after the snow was gone,
14 I went over the entire site. I don't remember now if
15 we had a motor grader in there and a dozer, but anyway
16 we went over the entire site, cleaned everything up so
17 it was a good looking site.

18 Q. What did it look like? What's a good looking
19 site?

20 A. Well, it looked like a field I guess you
21 would call it.

22 Q. Dirt or grass or?

23 A. No, there was no grass that I recall but just
24 dirt, generally level.

25 Q. Were there any structures of any kind left

1 standing?

2 A. Not that I -- no, I don't think there was.

3 Q. What about whatever you were referring to
4 that you used to see as you drove into the site in the
5 vicinity of what we have been talking about as the
6 sugar beet well on State's 9?

7 A. I don't remember after we were done whether
8 that was still there or not.

9 Q. Do you remember taking any precautions so as
10 not to damage any wells while you were leveling the
11 site.

12 MR. McDONALD: I think I am going to
13 object to that. I think that's been asked and answered.
14 I will withdraw my objection.

15 MR. WAHOSKE: I think we are talking now
16 about the final leveling, during that period.

17 MR. McDONALD: Final leveling.

18 BY MR. WAHOSKE:

19 Q. Do you remember them being marked in any way?

20 A. Well, if it was the well that I recall or if
21 that's what I remember off to the left and going into
22 the site and if it was -- it wouldn't have had to have
23 been marked. It was obviously sticking up.

24 Q. What did it look like as you remember it?

25 A. It seems to me it was probably three or four

1 feet high. It might have been gray in color.

2 Q. Was it a little building there or just a pipe
3 sticking out of the ground?

4 A. It was just an object. It wasn't a building.
5 Just something sticking up.

6 Q. You don't have a recollection if that was
7 there when you were done or not?

8 A. I don't remember.

9 Q. Well, that's all right if you can't. How
10 about in the area of the refinery building where we
11 have been talking about what has been labeled on
12 State's 9 as Republic deep well. Do you remember
13 anything there after you were done?

14 A. No.

15 Q. Do you remember any other wells on the site
16 at all?

17 A. No.

18 Q. How about what's labeled north of the
19 refinery building on State's Number 9 as simply "well,"
20 do you have any recollection of a well in that area?

21 A. No.

22 Q. Were you involved at all in any inspection at
23 the end of the job?

24 A. No.

25 Q. What did you do to leave the site when you

1 were done? How did you know you were done?

2 A. I think I talked to Kenny, and Kenny said, "Yes,
3 the site was accepted. We are all done."

4 Q. Was anyone else from Bolander that you
5 remember involved in some sort of site inspection at
6 the end?

7 A. Not unless it would have been Ben Longman.

8 Q. Or Ken?

9 A. Or Ken, yes.

10 Q. Do you remember them going out and tramping
11 around the site after you were done?

12 A. No. I don't think I was there when the --
13 after the inspection or at the inspection. I am pretty
14 sure I wasn't there.

15 Q. Have you done any other work out at that site
16 since this project?

17 A. Not that I know of. I have never been back
18 there.

19 Q. Have you ever done any work for either Saint
20 Louis Park or the State?

21 A. Not that I recall.

22 Q. Do you know who else from Bolander worked on
23 the site?

24 A. In regard to employees you mean?

25 Q. Yes, just anybody who worked there. Do you

1 remember?

2 A. Well, my younger brother.

3 Q. Who is that?

4 A. Russell Bauer.

5 Q. Is he still with Bolander?

6 A. Not at the present, no.

7 Q. Is he in the area?

8 A. What?

9 Q. Does he live in the area?

10 A. Yes.

11 Q. Anybody else? Maybe I should ask, do you
12 remember what Russ did?

13 A. He was a laborer.

14 Q. Did you tend to work on one area all of you
15 together and then move on?

16 A. No. We would be in one area, and if
17 something else was ready for demolition -- as I recall
18 it, we were still in the tank area when we had -- a
19 crane moved in and I don't remember what the crane
20 started on but, no, we would be in different areas.

21 Q. So would each employee have worked at each
22 area necessarily?

23 A. No.

24 Q. Who else besides Russell can you remember
25 that was out there?

1 A. Well, Gordy Ess, of course, before, you know --

2 Q. Before and after?

3 A. Yes. Oh, let's see. I think George Lambert
4 was the crane operator. If I remember right he started
5 at Bolander for me on that job.

6 Q. Is he still around Bolander?

7 A. As far as I know he is.

8 Q. Anyone else?

9 A. That's about it.

10 Q. Would there be a list anywhere of the people
11 who worked out on that site that you would know of?

12 A. Not that I would know.

13 Q. It probably would have been in those field
14 logs?

15 A. Yes, it would have been in the field logs,
16 yes.

17 Q. And then in a supervisory way, besides
18 yourself there was also Ken Moe?

19 A. Uh-huh.

20 Q. And to some extent Ben Longman?

21 A. Yes.

22 Q. Was Ben on the site often?

23 A. Well, it was kind of quite frequent sometimes,
24 and then again there would be, you know, three or four
25 days you wouldn't see him depending on what area we

1 were working in.

2 Q. Sure. He was there on and off throughout the
3 whole project though?

4 A. Right.

5 MR. WAHOSKE: Why don't we take a minute
6 to go off the record. I will see if I have some more.
7 It will only take just a moment here.

8 (At this time a discussion was held off the
9 record.)

10 MR. WAHOSKE: Back on.

11 BY MR. WAHOSKE:

12 Q. Bill, let me just focus one more time on the
13 question of the wells in the area. Do you recall any
14 Saint Louis Park people asking you about the wells at
15 any time during the project?

16 A. No, I don't recall.

17 Q. How about at the end?

18 A. No.

19 Q. And you said that you believe Gordy Ess was
20 probably someone who showed you where the wells were
21 but you don't remember for sure?

22 MR. HIRD: I would object to that. I
23 don't think that's the testimony.

24 MR. WAHOSKE: I will ask it in a less
25 leading fashion then.

1 BY MR. WAHOSKE:

2 Q. Do you recall anyone showing you where the
3 wells were?

4 A. Not for sure.

5 Q. Do you think someone might have, but you just
6 can't remember?

7 A. Oh, I am sure Gordy Ess would have, yes.

8 Q. Do you have any recollection how many there
9 were?

10 A. No, I don't remember.

11 Q. Do you remember if there were any?

12 A. Oh, I remember, yes, something about wells,
13 yes.

14 Q. Do you remember what you remember?

15 A. No.

16 Q. Okay.

17 A. Just outside of --

18 Q. Things we have talked about?

19 A. Right.

20 MR. WAHOSKE: I have no further
21 questions. Thank you.

22 (At this time a discussion was held off the
23 record.)

24

25

CROSS-EXAMINATION

1 BY MR. COYNE:

2 Q. Bill, when you were out on the Reilly Tar
3 site in the course of the demolition work, did you wear
4 footwear? What kind of footwear did you wear?

5 A. Usually, in addition to my work shoes, I
6 would wear rubbers.

7 Q. Why was that necessary?

8 A. Well, because there was areas that was sticky
9 and gooky -- gooey.

10 Q. So you had to wear the rubbers in order to
11 protect your shoes, is that right?

12 A. Yes.

13 Q. What kind of clothing did you wear on the
14 site during the course of the demolition work?

15 A. Well, all the laborers doing the cutting
16 stuff wore white disposable coveralls.

17 Q. Why was that necessary?

18 A. Because of the -- well, everything was dirty
19 and sticky, and the stuff would stain your clothes so
20 we wore those. About every other day they would have
21 to put on new ones.

22 Q. Were gloves also worn?

23 A. Most of the time I would say they were but
24 they supplied them themselves.

25 Q. Why was that necessary?

1 A. For handling the iron, cutting, your hand on
2 a hot iron, and other than that I guess mostly that
3 type of work you always wear gloves.

4 Q. Now, you very briefly described the
5 demolition of the tar cistern which is shown on
6 Minnesota Exhibit 9, and it's also shown on Reilly Tar
7 Exhibit Number 1. What was the condition of the floor
8 in the tar cistern once you had removed the contents?

9 A. There was cracks, and I guess you would call
10 them cracks on the walls, and the bottom of it looked
11 like it had cracks in it.

12 Q. Was the bottom of the tar cistern well
13 fractured. Did it have a lot of cracks in it?

14 A. Well, for an honest answer, you know, I
15 wouldn't say -- I don't know if it was, you know, how
16 really cracked.

17 Q. Were they hairline cracks or were they cracks
18 the size of a finger, your finger or mine, an inch or
19 inch and a half cracks or what was the approximate size
20 of the cracks? Do you recall?

21 A. I don't really recall, and running in and out
22 with the equipment, you know, that could have had
23 something to do with it too.

24 Q. But your testimony is that the floor of the
25 cistern was cracked before you were beginning the

1 practice of malling or balling the cistern, is that
2 right?

3 A. Yes, because I recall at the one point when
4 we were balling in the floor, the walls, the one side
5 just caved right off because -- it just tipped right in
6 because of the jarring of it, breaking up the floor.

7 Q. What was the appearance of the soil around
8 the tar cistern?

9 A. It was dark, black.

10 Q. You have also described the demolition of the
11 settling basin which is shown both on Minnesota 9 as
12 well as Reilly Tar Exhibit 1, and you testified
13 concerning the removal of a thick black material from
14 the settling basin. Isn't that right?

15 A. Yes.

16 Q. What was the appearance of the soil outside
17 the settling basin or around the settling basin?

18 A. It was dark and black.

19 Q. Now, the black soil around the settling basin,
20 did that black soil extend along the full length of
21 what is shown here on Minnesota Exhibit 9 as the --

22 MR. McDONALD: Are you withdrawing the
23 last question, counsel?

24 MR. COYNE: I am withdrawing the last
25 question.

1 BY MR. COYNE:

2 Q. Reilly Tar Exhibit Number 1 has a blue
3 penciled designation for the structure just south and
4 west of the settling basin, and the blue handwritten
5 notation is three foot high concrete dock. Do you
6 recall a concrete dock being located to the south and
7 west of the settling basin?

8 A. Yes.

9 Q. What was the appearance of the soil alongside
10 this dock?

11 A. It was dark, black.

12 Q. Was the soil tarry or oily?

13 A. Yes, if I remember right, yes, because that's
14 where the stuff after it was treated was pulled out
15 there, and then the stuff, creosote or tar, whatever,
16 would run off.

17 Q. Now, you previously also described the soils
18 around the tar cistern. Did those soils which you said
19 were dark or black also have this tarry or oily
20 characteristic?

21 A. Yes, I would say. Yes.

22 Q. So that these tarry or oily soils would have
23 extended along the full length of the dock area. Do
24 you recall?

25 A. Pretty much that whole area out there was

1 black. It might have even had some wood shavings or
2 something down, you know, to kind of help absorb the
3 stuff so it wouldn't puddle or pond, whatever.

4 Q. And, again, are you referring to the area
5 alongside the dock when you answer?

6 A. Alongside, right.

7 Q. Now, you have also described the demolition
8 of the retort cylinders?

9 A. Uh-huh.

10 Q. And the retorts are shown on Minnesota 9, and
11 they are referred to as well on Reilly Tar Exhibit 1 as
12 treating retorts. What was the appearance of the soils
13 in the vicinity of these retorts?

14 A. The appearance of what, the soil?

15 Q. The soil.

16 A. It was just like the rest of the area. It
17 was dark and tarry or oily-like.

18 Q. You have also described the removal of an old
19 railroad tank car. Do you recall that?

20 A. Right.

21 Q. What was the appearance of the soils around
22 this tank car that was removed?

23 A. They were also dark.

24 Q. And tarry and oily as well?

25 A. Yes.

1 Q. Were you able to remove the tank car intact?

2 A. Yes.

3 Q. Was it leaking? Do you recall?

4 A. No, it wasn't.

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1 Q. You have also testified concerning the
2 removal of tunnels on the site. Do you recall that?

3 A. Uh-huh.

4 Q. What was the appearance of the soil around
5 these tunnels?

6 A. Just about the same as the rest of the area.
7 If I remember right, it was oily, dark.

8 Q. Do you recall when you first came to the
9 Reilly Tar site whether the refinery building, which is
10 designated "Refinery" on both Minnesota 9 and Reilly
11 Tar 1, was still standing or had the demolition of the
12 refinery building already taken place or was it in
13 progress?

14 A. I believe that it was standing, if I remember
15 right. Yes, it had to have been standing because I was
16 out from the beginning so I am sure it was standing.

17 Q. Do you recall the demolition of the refinery
18 building?

19 A. No, I don't. I don't picture what it was.

20 Q. Do you need any additional time to complete
21 your answer?

22 A. I don't remember the demolition of it, no.

23 Q. Does that surprise you?

24 A. Pardon?

25 Q. Does that surprise you that you don't recall

1 the demolition work on the refinery?

2 A. No, there is other sites that, you know, that
3 are on there that I don't remember the demolition of.

4 Q. I think you did testify that some operations
5 were ongoing at the Reilly Tar site when you got there,
6 and that the company was still operating some of its
7 facilities. Is that right?

8 A. Oh, yes.

9 Q. Where were those ongoing activities?

10 A. Well, it would have been -- it seems to me
11 the retort and the boiler room of course. There could
12 have been more but those would have been the main ones
13 that I -- of course the office was in use.

14 Q. As I recall your testimony this morning, you
15 recall the existence of one well on the Reilly Tar site,
16 is that right?

17 A. Well, there is something that -- I recall
18 something on the left as you pull into the site, yes.

19 Q. And you very briefly described the appearance
20 of what you saw but I would like you, if you can, to
21 more fully describe what it is that you recall seeing,
22 the size of it, the shape of it.

23 A. It stuck up about three or four feet,
24 probably gray in appearance. That's about all.

25 Q. Now --

1 A. By itself. It was, you know -- that's about
2 all.

3 Q. Now, what you have described as being gray in
4 appearance, is that a --

5 A. Pardon me, go ahead.

6 Q. Was that a motor?

7 A. It seems like it would have -- yes. Yes, it
8 seems to me it was, yes.

9 Q. Now, the well as you can recall it, extended
10 approximately three to four feet above the surface of
11 the ground, is that right?

12 A. Uh-huh.

13 Q. How wide, as you recall, would this motor
14 have been, this gray motor?

15 A. I don't remember. 18, 20 inches, something
16 like that, foot and a half.

17 Q. Do you recall if the gray motor sat on the
18 pedestal?

19 A. No, I don't.

20 Q. So apart from the gray motor, you don't have
21 any other specific recall of what the well looked like,
22 is that right?

23 A. Right.

24 Q. Do you recall any damage done to that motor
25 or to that well during the course of the demolition?

1 A. No.

2 Q. If there had been some damage to that well or
3 the motor, do you think you would have learned about it
4 during the course of demolition?

5 A. Right. Oh, yes, I think I would have
6 remembered it too.

7 Q. So as you sit here today, you don't believe
8 there was any damage to that well and motor?

9 A. Not that I can -- no.

10 Q. So you don't believe that there was any such
11 damage?

12 A. Not that I know of, no.

13 Q. Are you familiar with what is referred to as
14 a Hersh dumpster?

15 A. No.

16 Q. Are you familiar with dumpsters?

17 A. Garbage dumpster like that you mean or -- I
18 don't know.

19 Q. Well, do you use dumpsters in the course of
20 your demolition activities at Bolander?

21 A. No.

22 Q. So you wouldn't be familiar with the capacity
23 of any dumpsters?

24 A. No.

25 Q. Where did the workers get their drinking

1 water during the demolition on the site?

2 A. Out of the office. I don't know if it was
3 City water or what, but there was a water spic -- yes,
4 a water spigot in the office.

5 MR. COYNE: Thank you.

6

7 CROSS-EXAMINATION

8 BY MR. HIRD:

9 Q. Mr. Bauer, I am David Hird. I represent the
10 United States in this lawsuit against Reilly Tar..

11 A. Okay.

12 Q. You were talking both with Mr. Wahoske and
13 Mr. Coyne about the settling basin which we have
14 identified on State of Minnesota Exhibit Number 9 as
15 the object marked "Settling Basin"?

16 A. Yes.

17 Q. Which corresponds to the object marked "Retainin
18 Basin" on Reilly Exhibit Number 1?

19 A. Right.

20 Q. I believe you testified when you removed
21 materials from that settling basin, you found the
22 materials to be about 10 to 15 feet deep. Is that
23 correct?

24 A. Yes.

25 Q. Did you load this material into trucks?

1 A. Yes.

2 Q. What was the capacity of the trucks you were
3 using on the site?

4 A. They were three axle dumptrucks so I would
5 say probably 12 or 14 yard trucks.

6 Q. So that would mean that they could hold about
7 how much in cubic feet?

8 A. The capacity of the truck I would say would
9 have been about 12 cubic yards.

10 Q. I am sorry. I misunderstood you. So it
11 would be 12 to 15 cubic yards?

12 A. Yes.

13 MR. McDONALD: It's not a big point. I
14 think he said 12 yards.

15 MR. HIRD: He had originally said 12 to
16 15 and I thought he was talking about length so I
17 wanted to figure out --

18 BY MR. HIRD:

19 Q. Was it 12 cubic yards or 12 to 15 cubic yards?

20 A. I think the trucks are considered 12 yard
21 dumptrucks.

22 Q. Do you recall approximately how many of these
23 trucks you filled up with material from the settling
24 basin?

25 A. No, I don't know.

1 Q. Would you say that it was more than two?

2 A. Oh, definitely. There was several.

3 Q. Would you say it was more than five?

4 A. Oh, yes.

5 Q. Would you say more than 10 trucks?

6 A. Oh, I will give you -- let's see. It had to
7 be around 15, something like that.

8 Q. Around 15 truck loads?

9 A. Uh-huh.

10 Q. Do you describe the site as sticky and greasy?

11 A. Uh-huh.

12 Q. Would you also describe the site as tarry?

13 A. Certain areas, yes.

14 Q. Which areas in particular?

15 A. Well, I would say the areas like around the
16 tanks would have been kind of tarry in that area there.

17 Q. You are referring to the area which has these
18 numbered tanks 8, 5, 6 and right next to the tar
19 cistern area?

20 A. Uh-huh.

21 Q. On State Exhibit Number 9?

22 A. Uh-huh.

23 Q. Are there any other areas that were as bad or
24 worse than that area?

25 A. No. The entire area was all, you know.

1 Q. There was tar all over the entire site?

2 A. Well, tarry or oily.

3 Q. Mr. Wahoske asked you some questions about
4 leaving the well intact which he read from the contract.
5 What's your understanding about what is meant by
6 leaving the well intact? What do you do when you are
7 demolishing a site to make sure a well is intact? What
8 kind of things would be done? How would it be
9 afterwards?

10 A. Well, if it's, you know, something that, you
11 know, you could accidentally damage easily, you would
12 stake it and put a flag on it. Otherwise if it's high
13 enough and it's obvious to the site, well, you just
14 work around it and you just don't --

15 Q. So it basically means that you just don't
16 deal with it at all?

17 A. Right, don't have nothing to do with it.

18 Q. Were the trucks that were used to haul
19 material away from the settling basin coated with any
20 material?

21 A. No, other than the back end -- the tailgates.
22 It was lined with plastic, and then we put sand up
23 against the plastic in order to keep the plastic from
24 getting tore so it would leak.

25 Q. How did you go about loading the trucks from

1 the settling basin? Would you just take the material
2 from the top and continue to work down?

3 A. Yes.

4 Q. I am sorry?

5 A. With a backhoe, just take a bucket at a time.

6 Q. So that material would be unmixed. You would
7 get a truckload that would be material solely from the
8 settling basin?

9 A. Right.

10 Q. You mentioned that Reilly would designate
11 items that it wanted to maintain and keep during your
12 demolition of the site?

13 A. Right.

14 Q. Did they have first call on all items. In
15 other words, if Reilly wanted it and Bolander wanted it,
16 Reilly would get it?

17 A. Kind of in a way, although everything was
18 pretty much itemized what was their salvage and what
19 was Bolander.

20 Q. But basically Reilly had the first choice?

21 A. Oh, yes.

22 Q. It was responsible for drawing up the list?

23 A. Right.

24 Q. That was a yes?

25 A. Yes.

1 MR. HIRD: No more questions. Thank you
2 very much, Mr. Bauer.

3

4 CROSS-EXAMINATION

5 BY MS. MARTIN:

6 Q. Bill, my name is Kathleen Martin. I
7 represent the City of Saint Louis Park in this
8 litigation. Prior to engaging in the demolition
9 project on the Reilly Tar site, had you served as a
10 foreman on other Bolander demolition projects?

11 A. Yes.

12 Q. And approximately how many times or how many
13 projects had you served as foreman for?

14 A. Oh, I don't know, a couple dozen I suppose.

15 Q. So you were fairly well experienced with
16 demolition work prior to doing the Reilly Tar work?

17 A. Oh, yes.

18 Q. In speaking with these other gentlemen
19 earlier today, you were telling us that your day-to-day
20 instructions for demolition work on the Reilly Tar site
21 were given to you by either Ken Moe or Ben Longman, is
22 that correct?

23 A. Right.

24 Q. Was it your understanding that the
25 instructions that they gave you were in accordance with

1 the contract executed between Bolander Company and
2 Reilly Tar & Chemical Company?

3 A. Yes.

4 Q. You had no reason to believe that they were
5 giving you instructions that were not in accordance
6 with that contract?

7 A. No.

8 Q. Did you have a set of written instructions
9 from which you worked during the demolition on the
10 Reilly Tar site?

11 A. I believe I did.

12 Q. Looking at what has been marked as Reilly Tar
13 Exhibit 114, I believe, the agreement --

14 MR. McDONALD: That's 116.

15 MS. MARTIN: Excuse me, 116, which is
16 entitled "Agreement for Clearing Land".

17 BY MS. MARTIN:

18 Q. Would it be possible that a copy of this
19 agreement with the price term of the contract blacked
20 out, would it be possible that that would have been
21 given to you as a written set of instructions?

22 A. Yes.

23 Q. But you were not a party to the actual
24 negotiating that occurred between Reilly Tar and
25 Bolander?

1 A. No.

2 Q. Is it a practice of Bolander & Sons to
3 provide their foremen with portions of the actual
4 contract to serve as a basis for day-to-day
5 instructions?

6 A. A set of specs, yes.

7 Q. And the set of specs would be the same as
8 this type of an agreement?

9 A. Yes.

10 Q. And in the course of doing demolition work on
11 the Reilly Tar site, you would have followed all the
12 specs provided for in the agreement?

13 A. Right.

14 Q. So is it correct for me to state and for you
15 to state that the contract, what we have been referring
16 to as Exhibit 116, was the basis for Bolander work on
17 the Reilly Tar site?

18 MR. McDONALD: I think I am going to
19 object to that. That might require a judgement by a
20 court of law.

21 A. As far as I know, I guess I don't know.

22 MR. McDONALD: I guess the question is
23 do you know. Maybe the question should be repeated or
24 maybe you can repeat the question. I am a little bit
25 unclear on whether or not that would be within his

1 knowledge.

2 BY MS. MARTIN:

3 Q. Do you know whether or not this contract we
4 are terming Reilly Tar Exhibit 116 served as the basis
5 for Bolander & Sons work on the Reilly Tar site?

6 A. As far as I know.

7 Q. And the only inspection by any Saint Louis
8 Park official that you can recall is this unnamed
9 person who occasionally visited the Reilly Tar site in
10 a pickup truck?

11 A. Yes.

12 Q. And you can't recall that person's name?

13 A. No, I don't.

14 Q. Did this person make regular inspections on
15 the site?

16 A. Not on a regular basis but, you know.

17 Q. Would it be correct to state that on an
18 occasional basis you would see this Saint Louis Park
19 pickup truck drive through the site?

20 A. Yes.

21 Q. This person apparently never asked any
22 questions of Bolander employees, is that correct?

23 A. Not to me anyways, not that I remember.

24 Q. To the best of your knowledge, did Bolander
25 Company complete their work on the Reilly Tar site in

1 accordance with this contract with Reilly Tar &
2 Chemical, which is identified as Exhibit 116?

3 A. Yes.

4 Q. Bill, were you personally or are you
5 personally now knowledgeable of any agreement between
6 the City of Saint Louis Park and Reilly Tar as to the
7 City's acceptance of Bolander work?

8 A. I don't know anything about it.

9 Q. Do you know whether Ben Longman might have
10 had knowledge of any such agreement or had he ever
11 discussed it with you?

12 A. Not with me.

13 Q. Did Ken Moe ever discuss anything like that
14 with you?

15 A. No, not that I recall.

16 Q. I would like to just clarify something in
17 relation to the tar cistern, which I believe is
18 identified on State Exhibit Number 9 as "Tar Cistern".
19 You were telling Mr. Coyne earlier that when you
20 removed the residue from the bottom of the cistern that
21 you found that the floor of the cistern had been
22 cracked?

23 A. Yes.

24 Q. And you couldn't recall specifically what the
25 size of those cracks were?

1 A. No.

2 Q. But could you tell us what the general
3 condition of the concrete was that lined the floor of
4 that cistern?

5 A. It was -- well, old and deteriorated. It
6 broke up real easily with a wrecking ball.

7 Q. Do you recall if the cracks that you noticed
8 on the bottom of the cistern were also found or
9 extended upward along the wall of the side walls of the
10 cistern?

11 A. I can't remember if the cracks -- you mean
12 went from the bottom and then up the side?

13 Q. Yes.

14 A. I don't recall that.

15 Q. Other than continuing cracks emanating from
16 the bottom of the cistern, do you recall any separate
17 cracks on the walls of the cistern?

18 A. The one wall had a definite big crack, and we
19 were balling up -- busting up the floor, the one wall
20 tipped right over. I remember that.

21 Q. Do you remember how large that crack was
22 alongside of the cistern wall?

23 A. You mean the length of it or --

24 Q. Anything you can remember, the length or the
25 width of the crack itself.

1 A. Well, it was somewhere like four or five feet
2 below the top.

3 Q. Of the cistern?

4 A. Yes. If I remember right, it went almost the
5 full --

6 Q. Length?

7 A. -- length.

8 Q. Of the cistern?

9 A. Yes.

10 Q. Would this crack along the wall that we have
11 been discussing have been below the level of the
12 residue material you found in the cistern?

13 A. No, it was above. It was in there when we
14 cleaned it out.

15 Q. But it was four or five feet below the top of
16 the cistern?

17 A. Yes.

18 Q. I will leave this crack shortly but I have
19 one more question. Do you recall if the crack on the
20 side wall of the cistern started at a point that might
21 have been above the level of the residue you found in
22 the cistern and then extended below the level of that
23 residue that you found in the cistern when you began to
24 demolish it and began to clean it out?

25 A. What you are saying is did the cracking below

1 the residue that we cleaned out in there --

2 Q. Yes.

3 A. I don't remember. It doesn't seem like it,
4 no.

5 Q. Did you testify earlier that the walls of the
6 cistern fell inward as you started to ball up the floor
7 of the cistern?

8 A. Yes, one did.

9 Q. Do you recall how deeply the soil was
10 contaminated around the walls of the cistern?

11 A. No, I don't.

12 Q. Do you recall what the condition of the
13 piping was that you removed from the site area?

14 A. It had a lot of tar and oil inside of it and
15 some stuck on the outside.

16 Q. Did you inspect that piping for any cracks or
17 leaks?

18 A. No.

19 Q. I would like to refer you to Page 3 of Reilly
20 Tar Exhibit 116, Paragraph 5. I believe you discussed
21 this paragraph with Mr. Wahoske earlier in your
22 deposition. Is it correct that that paragraph
23 references that the owner will identify all wells and
24 that the owner desires that such wells be left intact?

25 A. Yes.

1 Q. Do you recall what Reilly Tar employee or
2 official identified the wells on the Reilly Tar site?

3 A. I believe it was Gordy Ess. He was the one
4 that was familiar with the site. He was kind of
5 working with me.

6 Q. Would he have told you of the whereabouts of
7 those wells?

8 A. Oh, I am sure he would have.

9 Q. And once he identified those wells for you,
10 was it then your practice to avoid tampering with those
11 wells in any way?

12 A. Yes.

13 Q. And that was a matter of the agreement
14 between Bolander and Reilly Tar that you did not tamper
15 with those wells?

16 A. Right.

17 Q. You don't recall dismantling any well or well
18 pump?

19 A. No, I am sure we didn't have anything to do
20 with it.

21 Q. You don't recall bulldozing any well or
22 wellhead?

23 A. No.

24 Q. Is it true that you were on the site in both
25 the spring of 1972 and the spring of 1973 to do

1 demolition work?

2 A. Yes, I believe -- it might have been late
3 spring of '72 when we started.

4 Q. And did you testify earlier that you don't
5 recall ever witnessing any standing water on the site?

6 A. None other than that pond if I remember right.

7 Q. It's the pond out south and east of the
8 refinery on State Exhibit 9?

9 A. Yes. When it would rain there would be water
10 settled in there; but it seems, as I recall, it would
11 be dry other than, you know, after a rain.

12 Q. That was the only place you can recall water
13 collecting and staying for any period of time?

14 A. That's all I can recall.

15 Q. And that was true even after the spring, that
16 is in both of those years?

17 A. It seems like in the fall of '72 we filled
18 that in.

19 Q. Okay. Was there a strike among Bolander
20 employees in 1972?

21 A. I don't remember.

22 Q. If there had been, would that have inhibited
23 your completion of the demolition work on the site?

24 MR. McDONALD: I am going to object to
25 that question as asking the witness to speculate on

1 something that may or may not have occurred.

2 MS. MARTIN: I would have to agree with
3 that.

4 MR. HIRD: Are you also instructing the
5 witness not to answer?

6 MR. McDONALD: Is the question still
7 standing or has it been withdrawn.

8 MS. MARTIN: The question is withdrawn.

9 BY MS. MARTIN:

10 Q. When you left the site in the fall of 1972,
11 did you leave the site because snow had already fallen
12 on the ground or was about to fall?

13 A. It seems like it already had snowed, and I
14 think it snowed.

15 Q. At that time had you already cleaned out all
16 the residual tarry materials that were left in the tar
17 cistern or the settling basin or any other containers
18 where it might have been stored, had that work been
19 completed?

20 A. As I recall, yes.

21 Q. To the best of your knowledge, did Bolander &
22 Sons do anything in the course of their demolition work
23 on the Reilly Tar site that would in any way detriment
24 the underground waters or the water supply of the City
25 of Saint Louis Park?

1 A. No.

2 Q. Are you personally aware of whether there was
3 any additional clean-up on the site that occurred after
4 you completed your demolition work as specified in this
5 agreement between Reilly Tar and Bolander?

6 A. No, not that I know of.

7 Q. Earlier you testified in response to Mr.
8 Coyne's questions that the ground and areas around the
9 tar cistern, settling basin, the dock area, the retort
10 area was black and tarry or oily in nature. Is that
11 correct?

12 A. Uh-huh.

13 Q. Did you ever discuss the condition of that
14 soil with any official from the City of Saint Louis
15 Park?

16 A. Not that I recall.

17 Q. Do you know if Ken Moe or Ben Longman may
18 have discussed the condition of that soil with anyone
19 at Saint Louis Park?

20 A. No, I don't.

21 Q. Is it your testimony that old residual tarry
22 and oily type materials that you found in any container
23 of any sort on the site was carried off of the site by
24 truck into one of the two dumping areas?

25 A. Right.

1 MS. MARTIN: I have no further questions.

2 MR. McDONALD: I just have two or three
3 here.

4
5 DIRECT EXAMINATION

6 BY MR. McDONALD:

7 Q. Bill, referring you to Deposition Exhibit 116,
8 which I believe is before you, and this famous
9 Paragraph 5 that we referred to several times on Page 3.
10 Paragraph 5 speaks about identifying all wells on the
11 premises and the owners desire to keep those wells
12 intact. Can you recall at any time during your
13 presence on the site at Reilly Tar, whether you did
14 anything with the wells there?

15 A. No, we didn't.

16 Q. Did you understand your job in demolishing
17 the Reilly Tar site to be to specifically leave those
18 wells intact?

19 A. Yes.

20 Q. And did you in fact, to the best of your
21 knowledge, leave the wells intact?

22 A. Yes, to the best of my knowledge now.

23 Q. Now, Mr. Wahoske asked you a little later on
24 in his questioning about the Republic deep well, and I
25 am referring to the Minnesota Exhibit 9 and Reilly Tar

1 Exhibit 1. On both of those documents there, there is
2 a well identified as the deep well or the Republic deep
3 well, and I believe your testimony, correct me if I am
4 wrong, was that you couldn't remember this well
5 specifically. Is that a fair characterization of your
6 testimony?

7 A. Yes.

8 Q. But saying that you couldn't remember that
9 well specifically does not mean, does it, that that
10 well was not there?

11 A. No.

12 Q. That well could have been there but you just
13 may not recall it being there, is that correct?

14 A. Right.

15 Q. You just don't have any specific recollection
16 of that well being there or not being there, is that
17 correct?

18 A. Right.

19 Q. Several of the attorneys in this case have
20 asked you, again referring to Deposition Exhibit 116,
21 Page 3, Paragraph 5, about the owners identification of
22 all the wells, and I believe your testimony has been
23 that you believe that Gordy Ess probably identified
24 those wells to you, is that correct?

25 A. Yes.

1 Q. But do you know for sure whether or not it
2 was Gordy Ess who identified those wells for you?

3 A. Well, if he wouldn't have, I guess Barton
4 would have.

5 Q. So Mr. Barton could have. Someone else could
6 have identified those wells to you?

7 A. Yes.

8 Q. In other words, you don't recall specifically
9 who it was that identified these wells. It could have
10 been Gordy Ess but it could have been somebody else, is
11 that right?

12 A. Right.

13 MR. McDONALD: I have no further
14 questions.

15 MR. WAHOSKE: I have a few clean-up ones.

16

17 RECROSS-EXAMINATION

18 BY MR. WAHOSKE:

19 Q. The clothing and protective coverings of all
20 sorts that the workers and you wore here, are they
21 different than they normally would wear on a demolition
22 job?

23 A. Yes.

24 Q. How?

25 A. Well, on the regular -- well, just about

1 every other job we have done outside of B.F. Nelson we
2 never wear those white disposable coveralls.

3 Q. And you wore those for the B. F. Nelson job?

4 A. Yes.

5 Q. Any other way that they were different? Did
6 you normally wear gloves?

7 A. Oh, yes, everything else was pretty much the
8 same.

9 Q. Whose idea was it to wear the protective
10 coverall?

11 A. I don't recall just who come up with the idea
12 outside of the guys were all complaining that every
13 time, you know, they come to work in the morning with a
14 clean set of clothes on or a set of clothes they would
15 be ruined because the stuff would stain the clothes.
16 Once they got it on, you couldn't wash it out.

17 Q. Going now to demolishing the tar cistern that
18 we talked about. Tell me just exactly again how that
19 happened in terms of what piece of equipment would do
20 what.

21 A. You mean how we demolished it?

22 Q. Yes.

23 A. We went in -- well, to start with, there was
24 settling on the bottom. We went in with a front end
25 trackavator with a bucket in the front.

1 Q. Does that mean it went into the tar cistern?

2 A. Yes.

3 Q. Drove it right in?

4 A. Yes, it was tapered down. It was like going
5 down into -- like going into an underground parking
6 ramp. It just sloped down. We went in and cleaned it
7 out and then fractured and busted up the concrete small
8 enough so it could be left.

9 Q. What would you do that with?

10 A. With a crane.

11 Q. Where would the crane be standing, outside
12 the cistern?

13 A. Yes, up on the ground level. And balled it
14 up, busted up real fine, and then backfilled it.

15 Q. The trackavator would have driven around on
16 the floor of the cistern during the process of removing
17 the --

18 A. Yes.

19 Q. With regard to the cracks on the walls, do
20 you recall when you first saw those?

21 A. I think when I first looked down into the
22 cistern itself.

23 Q. Before you did any work on it?

24 A. Yes.

25 Q. The cracks in the floor I guess you wouldn't

1 have seen until you had the residue out?

2 A. Right.

3 Q. Let's talk about, just for a moment, about
4 the settling basin. Do you recall if that was full to
5 the top with the material that was inside, or was there
6 some room between the top of it and the material?

7 A. No, it wasn't full right to the top. Maybe
8 within a couple of feet or something like that.

9 Q. Was there anything in the settling basin
10 besides the material that was at the bottom of it
11 before you began your work?

12 A. Repeat that.

13 Q. I am wondering if there was anything in that
14 settling basin besides the material that was at the
15 bottom before you began your work.

16 MR. HIRD: I think that's a little
17 confusing. What do you mean by "material at the bottom"?
18 Are you saying that the material was in one consistency
19 or asking him a variety of consistencies.

20 MR. WAHOSKE: Let me clarify that.

21 BY MR. WAHOSKE:

22 Q. You testified that there was material which
23 you removed from the settling basin, call it residue,
24 whatever. Other than that, was there anything else in
25 the settling basin? Was there water or anything on top

1 of it?

2 A. There might have been a little water on the
3 top.

4 Q. Do you remember removing that?

5 A. No. Whatever would have been in the tank was
6 cleaned out and hauled out.

7 Q. You mentioned that you probably had a written
8 set of instructions for this job, and that it might
9 have been a copy of Reilly Tar Exhibit 116, the
10 agreement. Are you pretty sure of that or do you think
11 it was something else or is that just a possibility?

12 A. It's a good possibility I had a copy of this.
13 I had to have something, you know, to go by.

14 Q. But you don't know what it was for sure?

15 A. Well, it could have been Exhibit 118 or 117
16 too. I don't remember if I just had, you know, one
17 copy or if I had a couple different items. I don't
18 remember that.

19 Q. You principally remember following whatever
20 written instructions you had or following whatever Ken
21 and Ben told you?

22 A. Well, between the --

23 Q. Between the two of them?

24 A. Yes.

25 Q. Did they fill in the blanks or gaps on the

1 written instructions? If you had a question on the
2 written instructions, you should go to Ken or Ben for
3 an interpretation?

4 A. Right.

5 Q. Did you have to do that very often?

6 A. No, I think it was pretty well spelled out.

7 Q. But you did do that occasionally?

8 A. Yes.

9 Q. Had you been on the site prior to beginning
10 work on demolition?

11 A. For like a preconstruction meeting or
12 something?

13 Q. At any time that you can remember.

14 A. No.

15 Q. The first time you were there was when you
16 showed up to start demolishing it?

17 A. I think Kenny might have took me out there
18 the afternoon before we started or something like that.

19 Q. To meet with people there?

20 A. Well, no, I don't think I met with anybody
21 until the next morning, until we started; but he mostly
22 showed me so I could get an idea of what we would need
23 as far as equipment and tools and that kind of stuff.

24 Q. Did you have another job in the area at the
25 time? Did Bolander have another job in the general

1 vicinity?

2 MR. McDONALD: If he knows.

3 A. Geez, I really don't know. I can't remember
4 now.

5 Q. Do you remember if there was any fill from
6 another Bolander job hauled to this site and used?

7 A. No, I don't.

8 Q. Might that have happened?

9 A. Oh, it could have; but it would be very
10 unlikely unless it was in the area, and I don't
11 remember.

12 MR. WAHOSKE: That's all I have, Bill.

13 MS. MARTIN: I have one more question.

14

15 RECROSS-EXAMINATION

16 BY MS. MARTIN:

17 Q. Going back to the tar cistern, you just told
18 Mr. Wahoske that in order to clean out the system you
19 would drive this trackavator down a sloping floor of
20 the cistern to scoop out this material, is that correct?

21 A. Right.

22 Q. Did you drive the trackavator completely
23 inside the tar cistern to the end of the cistern?

24 A. Right, yes.

25 Q. Then after you removed the residue left in

1 the cistern by this piece of machinery, you then
2 inspected it and found cracks on the flooring?

3 A. Well, I was on the machine doing the removal
4 myself, and you could see it.

5 Q. So as you would scoop in front of you, the
6 scooper was in front of the machine itself?

7 A. Yes.

8 Q. So you would scoop the material off, and then
9 you would notice a crack there, is that correct?

10 A. Yes, as you were cleaning the floor out.

11 Q. And that would have been prior to the weight
12 of this piece of machinery being on top of that area of
13 the cistern floor?

14 A. Right.

15 MS. MARTIN: Thank you.

16 MR. HIRD: If I can ask a question just
17 to clarify.

18

19 RECROSS-EXAMINATION

20 BY MR. HIRD:

21 Q. You were talking to Mr. Wahoske about the
22 material in the settling basin.

23 A. Yes.

24 Q. Let me just clarify for my mind. You
25 testified that the material came within two feet of the

1 top of the settling basin?

2 A. I would guess, yes.

3 Q. Mr. Wahoske asked, I think, whether there was
4 water there. Would that be more than just a thin layer
5 of water?

6 A. I don't -- no, I don't think there would have.
7 It seems to me that it was like a ditch or something
8 that water would have just ran off.

9 Q. Before you took the material out of this
10 settling basin and you were standing over it and
11 looking into it, you could see the material that was
12 filling it up going to about two feet. Would that be
13 correct?

14 A. Yes.

15 MR. HIRD: No further questions.

16 MR. McDONALD: I have no further
17 questions. I will advise my client on the record.
18 You have the right to review and read the transcript of
19 the deposition that the Court Reporter will be
20 preparing. Your right extends really only to
21 correcting any mistakes that the Court Reporter could
22 have made or things along those lines. You would not
23 be allowed to change an answer. You also have a right
24 to waive the reading and signing of the deposition
25 transcript. It's really your option. As your attorney

1 I might advise you in this case it would be appropriate
2 to waive that, but that's up to you.

3 THE WITNESS: I will waive it.

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1 STATE OF MINNESOTA)
2) SS.
3 COUNTY OF HENNEPIN)

4 Be it known that I took the deposition of WILLIAM
5 BAUER, on the 2nd day of May 1983 at Minneaolis,
6 Minnesota;

7 That I was then and there a Notary Public in and
8 for the County of Hennepin State of Minnesota, and that
9 by virtue thereof, I was duly authorized to administer
10 an oath;

11 That the witness before testifying was by me first
12 duly sworn to testify the whole truth and nothing but
13 the truth relative to said cause;

14 That the testimony of said witness was recorded in
15 Stenotype by myself and transcribed into typewriting
16 under my direction, and that the deposition is a true
17 record of the testimony given by the witness to the
18 best of my ability;

19 That the reading and signing of the deposition by
20 the witness and the Notice of Filing were waived.

21 WITNESS MY HAND AND SEAL this 3rd day of May 1983.

22 _____
23 Kirby A. Kennedy
24 Court Reporter
25

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MINNESOTA

3 FOURTH DIVISION

4 -----
5 United States of America,
6 Plaintiff,

7 and
8 State of Minnesota, by its
9 Attorney General Warren Spannaus,
10 its Department of Health, and
11 its Pollution Control Agency,
12 Plaintiff-Intervenor,
13 vs.

14 Reilly Tar & Chemical Corporation;
15 Housing and Redevelopment authority
16 of Saint Louis Park; Oak Park
17 Village Associates; Rustic Oaks
18 Condominium Incorporated; and
19 Philip's Investment Company,
20 Defendants.

Civil No.
4-80-469

21 and
22 City of Saint Louis Park,
23 Plaintiff-Intervenor,
24 vs.

25 Reilly Tar and Chemical Corporation,
Defendant.

and
City of Hopkins,
Plaintiff-Intervenor,
vs.

Reilly Tar & Chemical Corporation,
Defendant.

VOLUME I

The Deposition of BENJAMINE F. LONGMAN, taken
pursuant to Notice of Taking Deposition, taken before
Kirby A. Kennedy, a Notary Public in and for the County
of Hennepin, State of Minnesota, taken on the 2nd day
of May 1983, at 1900 First Bank Place East Minneapolis,
Minnesota, commencing at approximately 2:40 o'clock
p.m.

2

APPEARANCES

1
2 DENNIS M. COYNE, ESQUIRE, and STEPHEN
3 SHAKMAN, ESQUIRE, Special Assistant Attorneys General,
4 1935 West County Road B2, Roseville, Minnesota 55113,
appeared for and on behalf of Plaintiff-Intervenor,
State of Minnesota.

5 KATHLEEN MARTIN, ESQUIRE, of the law firm of
6 POPHAM, HAIK, SCHNOBRICH, KAUFMAN and DOTY, LIMITED,
4344 IDS Center, Minneapolis, Minnesota 55402,
7 appeared for and on behalf of Plaintiff-Intervenor,
City of Saint Louis Park.

8 MICHAEL J. WAHOSKE, ESQUIRE, of the law firm
9 of DORSEY and WHITNEY, 2200 First Bank Place,
Minneapolis, Minnesota 55402, appeared for and on
10 behalf of Defendant Reilly Tar and Chemical
Corporation.

11 THOMAS E. REIERSGORD, ESQUIRE, of the firm of
12 YNGVE & REIERSGORD, Attorneys at Law, 6250 Wayzata
Boulevard, Minneapolis, Minnesota 55416, appeared for
and on behalf of Defendant, Reilly Tar and Chemical
13 Corporation.

14 JOSEPH C. VESELY, ESQUIRE, of the firm of
15 VESELY, OTTO, MILLER & KEEFE, Attorneys at Law, Suite
203, Northwestern Bank Building, Hopkins, Minnesota
55343, appeared for and on behalf of
16 Plaintiff-Intervenor, City of Hopkins.

17 ROBERT E. LEININGER, ESQUIRE, Enforcement
18 Attorney, 230 South Dearborn Street, Chicago, Illinois
60604, appeared for and on behalf of the United States
Environmental Protection Agency, Region V, Plaintiff,
19 United States of America.

20 DAVID HIRD, ESQUIRE, Trial Attorney,
21 Department of Justice, 10th Street and Penn Avenue,
Washington, D.C. 20530, appeared for and on behalf of
22 the United States of America.

23 DAVID C. McDONALD, ESQUIRE, of the firm of
24 BRIGGS & MORGAN, Attorneys at Law, 2200 First National
Bank Building, Saint Paul, Minnesota 55101, appeared
25 for and on behalf of Carl Bolander & Sons.

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BENJAMINE F. LONGMAN,

the Witness in the above-entitled
matter after having been first duly
sworn deposes and says as follows:

CROSS-EXAMINATION

BY MR. WAHOSKE:

Q. Could you state your name, sir, and spell it
for the record?

A. Benjamine F. Longman, L-o-n-g-m-a-n.

Q. And your current address?

A. 5900 Grass Lake Terrace, Minneapolis,
Minnesota 55419.

Q. And how are you currently employed?

A. I am employed by Carl Bolander & Sons.

Q. Mr. Longman, have you had your deposition
taken before?

A. Yes, I have, some time ago.

Q. Are you familiar with the general procedure?

A. Yes.

Q. Just to remind you a little bit, I will be
asking oral questions, and we will need oral responses
for the record, if you could remember that. If you
don't understand a question, please let me know. If
you do respond without saying anything, I will presume

1 that you understood the question before you made your
2 response. Is that procedure okay?

3 A. Yes.

4 Q. Mr. Longman, I understand you are here today
5 in two capacities, both pursuant to a subpoena issued
6 for you personally and that you have also been
7 designated by Carl Bolander & Sons to be one of the
8 persons to testify on behalf of that corporation, is
9 that correct?

10 A. I was issued a subpoena. I didn't know I had
11 been designated by Bolander.

12 MR. McDONALD: I did without your
13 knowledge this morning. I designated you with respect
14 to the entering into the contract or agreement with
15 Reilly Tar for the demolition of the site, to testify
16 to those matters as a representative of Carl Bolander &
17 Sons.

18 THE WITNESS: Fine. No problem.

19 BY MR. WAHOSKE:

20 Q. First, I think it might be helpful if you
21 would help me going through some of the documents
22 pursuant to subpoena duces tecum served on the
23 corporation. First, if you could give me a brief but
24 general overview of your involvement in this Reilly Tar
25 project for Carl Bolander & Sons?

1 A. I have been manager of demolition operations
2 for Carl Bolander & Sons Company for many years.

3 Q. Going back how far, if you remember?

4 A. 1960 on a full-time basis, half-time basis
5 prior to that for five years, 28 years altogether.
6 Reilly Tar & Chemical began looking for a demolition
7 contractor for this work. We were one of the firms
8 that they contacted, and I would have been the person
9 for Carl Bolander & Sons Company when their call was
10 brought for the purpose of negotiating this matter,
11 express a willingness as to whether we would enter into
12 a contract.

13 Q. Were you the person for Carl Bolander & Sons
14 who did all the negotiations on this matter?

15 A. Yes.

16 Q. Were you also on the site at any time?

17 A. Yes.

18 Q. Now, by "the site", I am referring to the
19 property which is now the former Reilly Tar & Chemical
20 site out in Saint Louis Park. Are you familiar with
21 that general area?

22 A. Yes, it was an operating Republic Creosote
23 plant. An operating plant known as Republic Creosote
24 at that time.

25 Q. Did you stay involved with the project from

1 its beginning stages in negotiations through the
2 completion of the work at the project?

3 A. Yes, yes.

4 Q. Okay.

5 A. Except there was a slight carryover into 1973,
6 some work we couldn't finish on account of weather. I
7 am just not sure that I am the one who followed up for
8 that portion of the work. I believe that I necessarily
9 would have gone back to examine the site at the
10 completion of it; but it seems Kenny Moe followed up
11 that last little bit of clean-up work in the railroad
12 area portion of the job.

13 Q. Would you say that you were probably the
14 person at Bolander who was the principle contact
15 between Bolander and Reilly Tar?

16 A. Yes.

17 Q. Perhaps now we can go through some of the
18 documents that were provided this morning. First off I
19 guess is a document that's in front of you now, sir,
20 and it's been marked Reilly Tar Exhibit 115. This is a
21 map. It was one of the documents provided this morning.
22 This is a copy of it. I think I have it oriented for
23 you.

24 It is apparently a map of the Reilly site,
25 and if you will notice as it occurred this morning or

1 as we noted it this morning, it is essentially the base
2 map or taken from the base map which is Reilly Tar
3 Exhibit 1 which is an Exhibit I have here and State of
4 Minnesota Exhibit 9 which is an exhibit on the easel
5 just next to it. Probably throughout your deposition
6 for reference purposes, because these two, State 9 and
7 Reilly 1, have been used in many other depositions, we
8 may correlate some things between Reilly Tar 115 and
9 those. I mentioned that at the beginning to explain to
10 you why we have three maps of virtually the same thing.
11 Let me ask first in connection with Reilly Tar 115, if
12 you know how this -- please take your time to look at
13 it.

14 MR. McDONALD: Just for clarification
15 purposes, I believe Reilly Tar Deposition Exhibit 1 has
16 the upper portion folded over too so if you were to
17 unfold it, it would be approximately the same size as
18 Deposition Exhibit 115.

19 A. What I was looking at, Counsel, was the
20 designation Drawing Number 19M. I have had occasion to
21 learn, as I have referred to in my notes, that was a
22 map of the site that was given me. These
23 professionally prepared maps have a designation number
24 on them.

25 BY MR. WAHOSKE:

1 Q. Have you ascertained that it is the same
2 number?

3 A. Yes.

4 Q. My first question was just that, Mr. Longman.
5 Do you know how this map, which is now Reilly Exhibit
6 115, came into your possession or Bolander's possession?
7 Do you know how he got a hold of it?

8 A. I dealt -- my dealings on this project were
9 with Mr. Finch, the manager of the plant for Republic
10 Creosote, and I have a copy of this map, and I have
11 referred to that designation number. I have to believe
12 that Mr. Finch gave it to me but I do not recall
13 physically handling any piece of paper which Mr. Finch
14 had to have given me the copy that we have.

15 Q. Let me refer you to some handwriting that
16 appears on this map. First off, down in one corner
17 there is the notation -- I am referring now to Reilly
18 Tar 115. There is some handwriting that says "Ray
19 Folland, Director of Public Works, City of Saint Louis
20 Park." Do you recognize that handwriting?

21 A. No.

22 Q. Might it be yours?

23 A. No, that is not mine.

24 Q. You don't know whose it is? If you would
25 like to refer to the original version of that, go right

1 ahead.

2 A. That is not mine.

3 Q. Do you know whose it might be?

4 A. I could not identify it for you.

5 Q. If you look again at Reilly Tar 115, there
6 are a few other handwritten notations. The direction,
7 if I may call your attention to it, at least one of
8 them, the direction north is written on there, and I am
9 wondering if you recall who, if anyone, that you know
10 might have written on these?

11 A. I do not recall.

12 Q. There appear to be some figures down in the
13 lower corner there of Reilly Tar 115, 2,500 times 1,100,
14 200 times -- it looks like 1380. Any recollection of
15 how those got there?

16 A. No. They look like they might be
17 measurements of the site, north, south, east, west
18 possibly. I have no idea what they refer to other than
19 that.

20 Q. Do you know whether or not any of that
21 handwriting was on the map when you received it from
22 Reilly Tar, when Bolander received it?

23 A. No, I don't recall it.

24 Q. Let me hand you next another item in the
25 subpoena documents. First, we will have it marked as

1 an exhibit.

2 (At this time RTC Deposition Exhibit
3 119 was marked for identification by the
4 Court Reporter.)

5 BY MR. WAHOSKE:

6 Q. Mr. Longman, I am now going to hand you what
7 has now been marked as Reilly Tar Exhibit 119. This is
8 also a set of documents, a set of pages, that were
9 produced to us this morning by the Bolander Company in
10 response to the subpoena duces tecum. Could you tell
11 me what these are if you know?

12 A. Well, it appears to be an inventory of tanks
13 and buildings, stacks, boilers and items that were on
14 the site is what it appears to be. Some equipment.

15 Q. Do you have any idea where this came from,
16 how it came to be in your files, that is Bolander?

17 A. No, other than I would be under the
18 supposition that it was given to me by Mr. Finch. I
19 didn't have any occasion to get this document anywhere
20 else. I do not recall having it handed to me. It is
21 in our file.

22 Q. Do you know what it might have been used for
23 by Bolander?

24 A. We spent a lot of time negotiating on this
25 job before we finally entered into a contract. The

1 plant was in operation. Some items were going to be
2 reserved by the property owner -- by the company, as I
3 recall, removed from the site. Some were going to
4 remain, and they would be in the process of deciding,
5 apparently, what was to be removed and what was to stay,
6 and it would be a list from which to carry on
7 discussions.

8 Q. You think this may have served that purpose?

9 A. Well, I think so. I would have to -- I
10 shouldn't say I think so. I would have to guess so.

11 (At this time RTC Deposition Exhibit
12 120 was marked for identification by the
13 Court Reporter.)

14 BY MR. WAHOSKE:

15 Q. Mr. Longman, I am going to now hand you what
16 is Reilly Tar Exhibit 120. That is a copy of another
17 document in the documents provided to us by Bolander
18 this morning, and I will ask you if you recognize it
19 and the handwriting?

20 A. I recognize the handwriting as mine.

21 Q. Could you tell me what the document is?

22 A. Oh, it's a preliminary -- some preliminary
23 scritch-al-scratchal figures, a listing of tanks and
24 buildings, items apparently that were to be removed. I
25 note that the date is -- it was more than a year before

1 we entered into the contract so apparently it was
2 something that I put together in a hurry just walking
3 around the site, maybe from a list that Finch had given
4 me to establish some general figures or get a basis
5 established for talking about the job.

6 Q. What's the date that you are referring to?

7 A. The date is May 12, 1971.

8 Q. I notice the name Fred Burton and a telephone
9 number under it written on the document. Could you
10 tell me who that would be and why that might be on
11 there, if you remember?

12 A. Again, I cannot, but having looked at some
13 other papers in here a few days ago, I believe this
14 929-7851, that phone number, was Republic Creosote's
15 phone number because I see it associated with another
16 name. There is another document where the name Fred
17 Burton is scratched out and a name that sounds somewhat
18 similar to it is substituted for it.

19 Q. Ward Barton?

20 A. Ward Barton. My recollection is that Ward
21 Barton was an assistant manager or yard manager or some
22 such person for Republic Creosote. Fred Burton itself
23 does not register with me. Ward Barton does after some
24 thinking so this may have been a preliminary phone call
25 to come -- and I may have misunderstood the name, to

1 come and look at these buildings and lay a basis for
2 the discussion for the buildings and tanks and general
3 things that we want done.

4 Q. To the best of your recollection, would
5 Reilly Tar Exhibit 120 have been prepared after or
6 during a site inspection?

7 A. After a preliminary site inspection.

8 Q. So do you recall that you probably inspected
9 the site in probably May of 1971?

10 A. Probably. April or May of '71, I would guess,
11 looking at this document.

12 Q. Now, the numbers that are listed there under
13 building and under tanks, or I should say next to them,
14 for example, Building 5 through 9. Tanks 11 through 16,
15 do you know what those numbers would correspond to?

16 A. Each building are each number on the site, in
17 my recollection of the inventory of the company.

18 Q. Do they seem at least to correspond to the
19 numbers on the map, Reilly Tar 115?

20 A. I haven't checked it but I would expect they
21 would. I believe these numbers -- this exhibit I can't
22 read very well.

23 MR. McDONALD: Just so the record is
24 clear, Counsel, the witness is referring to Deposition
25 Exhibit 116 when you say "that map". The map in front

1 of him.

2 MR. WAHOSKE: To clarify the record, it
3 was 115 that I was referring to.

4 A. Building 1 is not on your Exhibit 120 but
5 Building 1 I believe was the office. This particular
6 location appears to me to be where Building 1 was.
7 Just -- that small basis of judgement, I would say that
8 the numbers listed on here were taken off of the plan
9 sheet that you have given to me, your Exhibit Number --

10 Q. Thank you. Let's go through a few more of
11 these.

12 (At this time RTC Deposition Exhibit
13 121 was marked for identification by the
14 Court Reporter.)

15 BY MR. WAHOSKE:

16 Q. I will now hand you what has been marked as
17 Exhibit 121, three pages. Mr. Longman, I will ask you
18 now if you recognize what I have given to you as a
19 3-page Document, 121. I will ask you if you recognize
20 these as coming from Bolander?

21 A. Well, these are copies. Exhibit 121 are
22 copies of documents that were documents from Bolander's
23 file.

24 Q. Do they look to be in your handwriting or
25 someone else's, as best you can tell?

1 A. One of them is in my handwriting -- two of
2 them in my handwriting, actually the two small sheets
3 and the front page, large page, is not in my
4 handwriting.

5 Q. So Page 1 of Exhibit 121 is not your
6 handwriting, but Pages 2 and 3 appear to be?

7 A. Yes.

8 Q. Do you know when those might have been made
9 in connection with what?

10 A. Well, I have to say they were made some time
11 between May of 1971 and April of 1972. I would say
12 quite some time before that. My best guess is that it
13 was made in the summer -- spring or summer of 1971.

14 Q. Do you know what they consist of, what they
15 represent?

16 A. The large page appears to have reference to
17 buildings, tanks, ditches and numbers and a price put on
18 each of them.

19 MR. McDONALD: If I might indicate again,
20 just to keep the record clear, M. Longman is looking at
21 the original documents that were provided this morning,
22 and when he says the long page, he is referring to Page
23 1 of Exhibit 121 which is the page which is done in
24 somebody else's handwriting, not his.

25 MR. WAHOSKE: Thank you.

1 A. In addition to listing some buildings and
2 tanks with estimated prices, there is a list of some
3 railroad equipment. That is in the form of ties and
4 trackage.

5 Q. How about the two pages that are in your
6 handwriting?

7 A. Page 2 of the exhibit refers again to some
8 specific building or tank numbers, some of which I can
9 identify from other writing in which I
10 scritchaled-scratchaled the price for which appears to
11 be Mr. Dick Brooks, the building inspector of Saint
12 Louis Park.

13 Q. Yes, I notice that that's written across the
14 top of that page. Do you know why that would be there?

15 A. I have no recollection whatsoever of this
16 document; but this is in my handwriting. For some
17 reason it has no date on it or somebody from Saint
18 Louis Park would have called me for some specific
19 information or an estimate or a guess of some kind, a
20 preliminary of some kind. These were preliminaries.

21 Q. Do you think it was he who asked for this
22 estimate? Is that what that might lead you to believe,
23 his name at the top?

24 A. Page 2 of Exhibit 121?

25 Q. Yes.

1 A. Yes, I believe it would be Mr. Dick Brooks
2 who made that inquiry; but I do not recall meeting Mr.
3 Dick Brooks. His apparent name apparently slipped my
4 mind so I had very little contact with him.

5 Q. How about Page 3? Is that the back of Page 2?

6 A. That's the back of Page 2, and it's merely
7 some scritch-scratch multiplying I did to get some
8 numbers in my hand. You estimate buildings on cubic
9 content, on material content and have some generalized
10 figures -- generalized multiplying numbers that you are
11 using in your mind where a building maybe a \$.04
12 building or 20 cubic feet wise. Or material may be
13 concrete at \$15 a yard or wood at \$15 a yard. You must
14 get these basic material quantities in your mind, and
15 then for quicky estimating-purposes multiply in your
16 mind while you are on the phone and give somebody a
17 guess.

18 Q. Do you think you did a separate inspection
19 for this estimate for Mr. Brooks or do you have any
20 recollection of it?

21 A. I have no recollection whatever of this
22 document so I wouldn't -- I just couldn't answer the
23 question. It may have been taken off something else.
24 It may have been done before some of these other papers
25 that have dates on them. It may have been done

1 afterwards. I have no idea. So if it was done before
2 I looked at anything else, then I would have had an
3 inspection.

4 (At this time RTC Deposition Exhibit
5 122 was marked for identification by the
6 Court Reporter.)

7 BY MR. WAHOSKE:

8 Q. Mr. Longman, I will give you next what has
9 been marked as Reilly Exhibit 122. I will ask you if
10 you can tell me what that is?

11 A. Again, that's a figure -- an estimate sheet,
12 obviously a rough estimate sheet, dated the 16th of
13 June, 1971. It has the name Herb Finch written on it,
14 Republic Creosote and Ward Barton and a telephone
15 number. It has two, four, six, seven figures that add
16 up to \$136,000. It has the name Allen Engen and
17 apparently the City Hall phone number.

18 Q. What's the total of the figures?

19 A. \$136,000.

20 Q. Who would Allen Engen be?

21 A. My recollection is Allen Engen was building
22 supervisor or building inspector or he held some
23 supervisory capacity, as I recall, in the City of Saint
24 Louis Park.

25 Q. Do you know why this document would have been

1 created? Is it in your handwriting?

2 A. It is in my handwriting, and it is made for
3 Republic Creosote to the attention of Herb Finch and
4 Ward Barton.

5 Q. I notice there is a figure, 500, I suppose
6 \$500, for permits. Do you know what that referred to?

7 A. Wrecking permits.

8 Q. What sort of permits would have been required?

9 A. At that time I don't know that there was
10 anything more than what was called a wrecking permit
11 required.

12 Q. Who would issue that?

13 A. The City of Saint Louis Park.

14 Q. Any other Saint Louis Park permits you might
15 think of that would be in connection with that?

16 A. We may have had a permit to hook on to a
17 hydrant, but -- what permits are required? It varies
18 with the municipality, and it varied with the years,
19 and I just -- there is no way I can recall that.

20 Q. Any State permits involved in these?

21 A. No, not that I recall.

22 Q. Going down on that same document, there is a
23 figure "7,000 dump." Do you know what that refers to?

24 A. It costs money to operate a dump. We charge
25 for dumping. We maintain a big cat and an operator at

1 this dump, and we grade it, guard it from public
2 vandalism entry, and it costs money. So there is a
3 charge, and we estimate the amount of material that
4 would be going to the disposal site and charge for it.

5 Q. Do you know what dump that might be referring
6 to?

7 A. That would be referred to what we call
8 Concord.

9 Q. Where is that?

10 A. City of South Saint Paul off Concord Street.

11 Q. Is this a dump that your company maintained?

12 A. And we operated it for many years.

13 Q. Do you still have it?

14 A. Yes.

15 Q. Do you know why Allen Engen's name would be
16 on this estimate?

17 A. Not specifically why, no, but there were --
18 the City of Saint Louis Park was always in the
19 background here somewhere. The property, I generally
20 understood or as I recall, was to be sold or
21 transferred to the City of Saint Louis Park, and this
22 work that we we were negotiating must conform with
23 their requirements.

24 Q. Do you recall in these early 1971
25 negotiations whether the City of Saint Louis Park was

1 directly involved with you in your negotiations with
2 Reilly Tar?

3 A. Not at any time that I was dealing directly
4 with Reilly Tar and Chemical do I recall the City of
5 Saint Louis Park --

6 Q. Do you recall any negotiations between
7 yourself and the City of Saint Louis Park at around
8 that time, May or June of 1971?

9 A. There was a document in the file which
10 indicates I gave the City of Saint Louis Park a figure
11 so I had to have been. I had to have some discussions
12 with the City of Saint Louis Park.

13 Q. Do you remember anymore about it than that?

14 A. Not really.

15 Q. Do you know what that figure written above
16 Mr. Engen's name, "5005" is?

17 A. Minnetonka Boulevard, that's the address of
18 the City Hall.

19 Q. Oh, thank you.

20 (At this time RTC Deposition Exhibit
21 123 was marked for identification by the
22 Court Reporter.)

23 BY MR. WAHOSKE:

24 Q. Next, Mr. Longman, I will give you Reilly Tar
25 Exhibit 123 and ask you if you can tell me what that

1 might be?

2 A. It's an item headed "Republic Creosote Tanks."
3 It's got a date, "16 June '71" on it. That date is in
4 my handwriting. None of the rest of it is in my
5 handwriting.

6 Q. Do you know who might have prepared it?

7 A. Checking back over the handwriting where
8 people generally -- this is John Longman, my son.

9 Q. What involvement would he have had?

10 A. An assistant estimator in my office.

11 Q. Did he go with you on the Saint Louis Park
12 Reilly Tar site inspections, any of them?

13 A. I do not recall being out there with him at
14 any particular time; but I asked him to go out and
15 enumerate these tanks, sizes, buildings, one thing or
16 another, and put down his idea of the price on them.

17 Q. Did the two of you then compare notes and
18 come up with a final?

19 A. I would use his figures as a check on mine.
20 This is very rough pricing work.

21 Q. Oh, sure,

22 A. And you can get three or four people who have
23 some background and ideas and some basis for performing
24 ideas. You want three or four prices, and out of that
25 you make your final decision. Maybe you will discard

1 theirs altogether and/or discard your own. But it was
2 a check on the number of tanks on the buildings on the
3 plan sheet by the impressions of problems that we would
4 encounter.

5 (At this time RTC Deposition Exhibit
6 124 was marked for identification by the
7 Court Reporter.).

8 BY MR. WAHOSKE:

9 Q. Mr. Longman, I will now hand you Reilly
10 Exhibit 124. That's three pages, I'll ask you if you
11 can tell me what those are?

12 A. Page 1 of your Exhibit 124 has the name
13 Republic Creosote on it and the date of March 3, 1972
14 and the name Herb Finch.

15 Q. Do you recognize the handwriting?

16 A. Yes. The handwriting on the top portions,
17 again I believe that to be that of my son, John. My
18 own handwriting I believe is a \$3,000 item, car tanks,
19 and \$3,000 item for below grade tunnel and \$118,000 or
20 \$115,000. The other figures I believe are my son's,
21 John.

22 Q. Now, the date I guess we decided is March 3
23 of 1972. Do you recall making a separate inspection
24 for this estimate as opposed to the earlier estimates
25 we have been talking about?

1 A. No, I do not.

2 Q. Might you have or would you have gone on your
3 original --

4 A. Well, I would say these being in the file we
5 previously did. These were items I believe that would
6 be involved in the process of negotiation again and
7 building, tanks -- there were work items being put in
8 and work items being taken out and discussions of this
9 kind going on over a long period of time.

10 Q. If you had separate pipes like this, is it
11 likely that you made a separate inspection before your
12 new estimate?

13 A. I do not recall a whole series of inspections;
14 but I just feel that size and that complexity, that I
15 would have had to have been out there quite a number of
16 times.

17 Q. All right.

18 A. May I go back to something else here?

19 Q. Sure.

20 A. I am longing for -- it has to do with your
21 Exhibit 122. On my original copy, take note, Counsel,
22 there have been many staples in here, and pulled out.
23 There is no support paper whatever for that document;
24 but obviously there has been support paper there.
25 There has been other paper attached to it that's

1 stapled and pulled off. When or where I don't know.

2 Q. What you are saying in the original document
3 provided to us by Bolander, there are obviously staple
4 holes?

5 A. Yes.

6 Q. But no documents stapled to it?

7 A. And just going to your question here, I -- it
8 only goes to answer your question.

9 Q. Sure.

10 A. Did I just go there once and was that the end
11 of my visits? I would say obviously no. Here is a
12 price that we went with on the job made a year before
13 we entered into a contract on that job, and there is no
14 support paper; but there has obviously been other paper
15 attached to it, a good deal of it at different times,
16 and this would be characteristic of the way I do a lot
17 of my work.

18 Q. What sort of support papers would have been
19 attached, separate figures?

20 A. Figures I put together off of my own
21 observations, figures I put together from my son John's
22 observations.

23 (At this time RTC Deposition Exhibit
24 125 was marked for identification by the
25 Court Reporter.)

1 BY MR. WAHOSKE:

2 Q. Here is Reilly Tar 125. I will ask you if
3 you can tell me what that might be? I see in your hand
4 the original which has a copy on the back. Since I
5 have that, I will just add that drawing as Page 2 of
6 125. Does that look like your handwriting, Mr. Longman?

7 A. No, this is not my handwriting, and I really
8 don't know what it is.

9 Q. I see the name Monroe Brown written on there.
10 Would you know who that might be?

11 A. I do not recollect.

12 Q. It is a drawing on the back of 125, or Page 2
13 of 125 on the back of the original. Do you know what
14 that might represent?

15 A. The front side there is a four feet by four
16 feet and on the back side. It has to do with some
17 little construction item.

18 Q. Is that possibly a schematic of some sort of
19 a trench?

20 A. I really can't tell. I can't answer that.

21 MR. WAHOSKE: Just for the record, 125
22 and Page 2 are also documents provided this morning by
23 Bolander.

24 MR. WAHOSKE: Off the record just a
25 moment.

1 (At this time a discussion was held off the
2 record.)

3 MR. WAHOSKE: I think at this point I
4 will stop going through the documents piece by piece
5 that we got this morning. I will refer back to them a
6 little later.

7 BY MR. WAHOSKE:

8 Q. Now, I will just ask you a few general things..
9 How long have you been with Bolander, Mr. Longman?

10 A. 1955.

11 Q. Did you start with them -- I think you said
12 as a part-time estimator?

13 A. Yes, I started there as a part-time
14 accountant.

15 Q. Did you do all their estimation work?

16 A. No. I did all the demolition estimating work
17 for many years; but Bolander is engaged in many lines
18 of activities other than demolition. That's just one.
19 They did very little demolition work until I came there
20 and essentially put them in the business.

21 Q. That would be in '55 that they started doing
22 demolition?

23 A. Yes -- well, we really didn't get into the
24 demolition until 1958 and in 1960 expanded to a very
25 large operation.

1 Q. Have you estimated all of their demolition
2 projects from '60 to the present?

3 A. Essentially all of them up until about two
4 years ago. This Kenny Moe who had been in here
5 testifying has been a full-time estimator for about
6 three years also, and he does quite a little estimating
7 that he does on his own now. I am about seventy years
8 old. I am not looking at it to stay at it forever.

9 Q. Prior to doing the estimation on this job for
10 Reilly Tar, had you estimated any jobs for Bolander
11 similar to the type of demolition they asked for at the
12 Reilly plant?

13 A. We have removed tanks, above grade tanks
14 prior to that, below grade tanks, buildings. The
15 particular assembly of buildings and tanks and nature
16 of operation, we had not done before, that particular
17 type of operation.

18 Q. By that you mean a wood treating and creosote
19 refinery?

20 A. Where there were a large group of tanks with
21 residue and closely packed and fire potentials,
22 problems, fuel problems for the workmen, protection
23 problems, fuel problems for the neighborhood.
24 Environmental problems having to do with surface items,
25 getting complaints about odor, and we sampled some of

1 this material, how we are going to cut these tanks and
2 what's it going to do to the laborers. Is it going to
3 be such that the fumes will not make them sick an hour
4 later. And who do we have here that can do this kind
5 of work and is willing to do this kind of work.

6 We had done enough similar things in
7 individual jobs so that we felt we could do this
8 combination of work in place and do it safely, and this
9 was the big thing, and safely so far as our people were
10 concerned and satisfy insofar as the customer and the
11 village are concerned and getting along with everybody.

12 Q. Had you done any demolition projects
13 involving petroleum or creosote products before?

14 A. Well, we have done a lot of petroleum
15 projects. Creosote is used so many places. We have
16 done railroad yards and ties are creosoted for years,
17 you know, that's what this was, was a creosoted plant.
18 I am not able to pinpoint specific jobs but, yes, we
19 had worked around creosote if that's what you mean,
20 smaller quantities.

21 Q. Did you ever work with it in a situation
22 where it would have been in a large tank that you were
23 dismantling?

24 A. I don't recall any large tanks. It seems to
25 me there were a couple of railroad yards where we had

1 some smaller tanks. The product had been removed, and
2 there was creosote in the residue. Separate the
3 residue from the product here. We removed the residue.
4 The product was removed by the Republic Creosote people,
5 distinguish very carefully. They are two different
6 things.

7 Q. Do you recall any of the specific projects
8 with railroad yards that you dealt with creosote before?

9 A. No, I can't -- it just seems to me over in
10 the northeast off Harrison Street, it was the Great
11 Northern at that time, we removed some tanks. But
12 there has been so many of these things, very vague in
13 my mind. I was not apprehensive or concerned. I have
14 had enough experience so that I was not apprehensive or
15 concerned about successfully removing these tanks and
16 this residue product. Is that what you are asking me?
17 I don't know what you are asking me really.

18 Q. I was interested in just the general
19 experience that you and Bolander had.

20 A. I can give you one more little background. I
21 also happen to be retired from the Minneapolis Fire
22 Department, and in the course of my experience at the
23 fire department I did have experience with burning fuel
24 tanks and railroad yards and burning fuel tanks
25 elsewhere, and that fire department background was very

1 useful in this particular instance from the point of
2 how to protect our people and how to get along with the
3 inspection authorities, how to handle our own little
4 fires. We had fires every day. We took care of those.
5 The City of Saint Louis Park trusted us because of our
6 fire department background and the Bolander record in
7 general. We felt able and capable.

8 Q. You mentioned I think in your description
9 before some sort of test or sampling that were done.
10 Could you tell me more what that involved in connection
11 with the Reilly demolition project?

12 A. Test or sampling?

13 Q. It seemed to me you said you took some tests
14 or samplings of the product out there to see if it
15 would be safe for your people to work with it.

16 A. We cut some -- we took some sections of tanks
17 and took them to our yard and got some of this material
18 burning. It would burn.

19 Q. That would be the residue in the tanks?

20 A. Yes. There were pieces of tank laying here
21 and there and chunks of residue, take it out into an
22 open area and burn it, see what kind of fumes it would
23 produce, and whether there would be a particular
24 problem in large quantities of it burning to see if we
25 could put it out. Small fires, yes, but a large fire

1 might become a different story.

2 Q. Do you recall, after your evaluation of this,
3 what particular safety precautions were decided to be
4 used?

5 A. We got a hold of a fire hose on the site all
6 the while we were cutting anything.

7 Q. Any protective clothing or things like that
8 that you recall?

9 A. Nothing in particular, just keep that hose
10 there for little fires, puts them out.

11 Q. Have you had any projects at all like the
12 Reilly Tar project since then, in terms of dealing with
13 creosoted petroleum products?

14 A. No, not this same type of thing.

15 Q. Any on a smaller scale?

16 A. We had gasoline tanks. We don't cut up many.
17 When the gas company plant here was put out of business,
18 we did that. That was full of coal tar and products,
19 and we cut that up. First big million dollar gasoline
20 tanks that were put out of business in the area, we did
21 the work with that. In our garages we regularly weld
22 tanks, gasoline tanks, fuel oil tanks. We have
23 mechanics that do that all the time but you know how to
24 do it. There are people that know how to do that and
25 do it safely. They weld tanks right on equipment.

1 Q. Were you involved at all before -- let's take
2 before the Reilly Tar project in disposing of creosote
3 material or creosote residue in the course of your
4 demolition work?

5 A. Well, creosote railroad ties, creosote power
6 poles, small quantities of creosote from here, there
7 and elsewhere.

8 Q. Where would they be disposed of?

9 A. Small quantities in landfill areas.

10 Q. In your dump in South Saint Paul?

11 A. Small quantities.

12 Q. Do you remember doing work for Reilly Tar out
13 there before this particular project?

14 A. I did not. Mr. Finch has had a lot of
15 dealings over the years with other people at the
16 Bolander Company, and specifically what work we may
17 have done, I don't know. We have a grading operation,
18 pile driving operation. We have this and that. There
19 has been lots of piling been done out there and grading
20 work done. I wouldn't know what other work. This was
21 demolition and this was my part of the company's
22 activities.

23 Q. I have got a few documents I might run
24 through that can help me understand maybe some of the
25 past history if we could mark that one.

1 (At this time RTC Deposition Exhibit
2 126 was marked for identification by the
3 Court Reporter.)

4 BY MR. WAHOSKE:

5 Q. Mr. Longman, I am going to now hand you what
6 has been marked as RTC 126 and ask you if you can
7 identify that for me?

8 A. It's a letter to Herb Finch dated September 2,
9 1964, "Re: Demolition of old brick building, \$1,350."

10 Q. That is signed by apparently S. F. Shepard.
11 Do you know who that is?

12 A. That is Shepard of Carl Bolander Company, a
13 long time vice-president and still vice-president.

14 Q. Now, would you have been involved in an
15 estimation of a demolition of that nature?

16 A. This is something I hadn't even heard of.
17 Herb Finch probably took care of it.

18 Q. Do you have any idea?

19 A. He says \$1,350 reduced to \$1,250. I don't
20 know what it is. They used to get together regularly.

21 Q. Who used to get together regularly?

22 A. Seth Shepard and Herb Finch.

23 Q. Do you have any idea if this demolition took
24 place or not?

25 A. I don't know. I wouldn't have any idea.

1 (At this time RTC Deposition Exhibit
2 127 was marked for identification by the
3 Court Reporter.)

4 BY MR. WAHOSKE:

5 Q. Mr. Longman, I will now hand you what has
6 been marked as RTC Exhibit 127 and ask you if you can
7 identify that for me?

8 A. No, I have never seen this.

9 Q. For the record, this document appears to be a
10 memo of Reilly Tar & Chemical Corporation from H. L.
11 Finch to T. E. Reilly, "Subject: Equipment - Saint
12 Louis Park - Removal of By-products Building Number 13.
13 Work Order 241 A." Referring you down to Paragraph 3,
14 it says, "This demolition will be carried out by Carl
15 Bolander & Sons Company at a quoted price of \$1,250."
16 Do you have any recollection of that demolition?

17 A. No.

18 Q. Do you know who might?

19 A. Well, Seth Shepard might. It refers to the
20 same item that is listed in your Exhibit 126, but --

21 Q. That's as far as you can tell us?

22 A. Right.

23 (At this time RTC Deposition Exhibit
24 128 was marked for identification by the
25 Court Reporter.)

1 BY MR. WAHOSKE:

2 Q. Mr. Longman, I will give you Reilly Tar
3 Exhibit 128. For the record, this also appears to be a
4 Reilly Tar and Chemical Corporation memo to H. L. Finch
5 from T. E. Reilly, "Subject: Equipment - Saint Louis
6 Park - Demolition of Brick Smoke Stacks on top of
7 Refinery Buildings 5 through 9. Work Order 243 A,"
8 dated November 6, 1964. Referring you down to the
9 second full paragraph, "This work will be performed by
10 Carl Bolander & Sons for a price of \$200 per stack, or
11 a total of \$1,000." Do you have any recollection of
12 this project?

13 A. Yes.

14 Q. Can you tell me about it?

15 A. There are four or five stacks. I remember
16 these stacks. Mr. Shepard -- my recollection right now
17 is Mr. Shepard and myself and Herb Finch had lunch out
18 there at the old restaurant out on the highway. I
19 can't recall the name of it. So then we drove out and
20 looked at the stacks, talked a little bit about them,
21 and we went over and knocked them down. I think we
22 just knocked the brick down inside the stacks,
23 incidental item, but I have a recollection of it now
24 that I see it.

25 (At this time RTC Deposition Exhibit

1 129 was marked for identification by the
2 Court Reporter.)

3 BY MR. WAHOSKE:

4 Q. Mr. Longman, I will now give you Reilly Tar
5 Exhibit 129. For the record this also appears as a
6 Reilly Tar & Chemical Corporation memorandum, to H. L.
7 Finch from T. E. Reilly, "Subject: Equipment - Saint
8 Louis Park - New Foundations For Number 1 Treating Tank,
9 Work Order 290 A." Referring down to Paragraph 3,
10 "The cost of the job, based on a bid from C. Bolander &
11 Sons is \$1,300 for breaking up the slab, cutting off
12 the piling, removing concrete and old insulation from
13 the plant and driving new piles which will be furnished
14 by us." Do you have a recollection of this project?

15 A. No.

16 Q. Do you know who might?

17 A. 1963. It's just possible Mr. Shepard would.
18 This is just one phase of it. Mr. Shepard and Mr.
19 Dennard were taking care of the pile driving operation
20 for Bohlander at that time. Mr. Denard is no longer
21 with the company. The only person I can think of at
22 this time who might have any recollection would be Mr.
23 Shepard, and he just might or might not. Twenty years
24 ago, it's a small incidental item.

25 (At this time RTC Deposition Exhibit

1 130 was marked for identification by the
2 Court Reporter.)

3 BY MR. WAHOSKE:

4 Q. Mr. Longman, I will now hand you what has
5 been marked as RTC Exhibit 130. The title at the top
6 says, "Improvements on plant property at Saint Louis
7 Park." I would refer you down to I guess the third
8 paragraph. It begins, "The first building to be
9 removed was the by-products building being accomplished
10 in
11 '62-'63." Do you recall whether Bolander participated
12 in that removal?

13 MR. HIRD: Excuse me. Has this been
14 identified? Is this a Reilly document? Is this a
15 document given to you by Bolander or what? I don't
16 think the witness is aware of what he is saying.

17 MR. WAHOSKE: I gave it to the witness
18 for informational purposes. It is not a document that
19 was produced to us according to the subpoena. I would
20 believe from the numbering on the bottom it may be a
21 Reilly document. That number would be 108399 and
22 108400, but I couldn't tell you for sure. What I was
23 intending to use it for, David, is to ask him about
24 these things in front of him whether he had any
25 knowledge that Bolander participated in it.

1 MR. HIRD: I just wanted the witness to
2 know from what he was looking at.

3 MR. WAHOSKE: Thank you for helping me
4 clarify that.

5 MR. HIRD: Sure.

6 BY MR. WAHOSKE:

7 Q. Have you had a chance to glance through it?

8 A. Yes.

9 Q. Do you recall whether or not, from what you
10 can remember, Bolander participated in any of these
11 demolition projects listed on here?

12 A. I don't recall whether or not. The Tar shed
13 removal was postponed at the completion. The Tar shed
14 was removed in September.

15 Q. If you don't recall, that's fine. I was just
16 trying to help establish the history of Carl Bolander
17 in terms of participating in demolition projects at the
18 Reilly site.

19 A. I do not recall.

20 Q. Mr. Longman, would you know who Howard
21 Shenahon would be, perhaps an appraiser?

22 A. The name does not register with me at all. I
23 have no recollection.

24 Q. Could you give me a brief outline of the
25 negotiations that took place between Reilly and

1 Bolander concerning this demolition beginning, if you
2 would, with your first contact, taking it up to the
3 signing of the contract? From what we have seen before,
4 it seems that we started around the spring of '71. Do
5 you have a different recollection?

6 A. I would have to recollect to a large extent
7 from the documents because my memory just by itself is
8 not adequate to answer your question.

9 Q. Okay.

10 A. So it would appear that I began discussing
11 this project with Mr. Finch in the spring of 1971, and
12 that these discussions went on for a year, again with
13 the documents with various modifications as to the work
14 that was to be done or work that was not to be done,
15 additions that were to be -- that were to exist, and
16 that we finally entered into a contract in the spring
17 of 1972 and went ahead and did the work soon thereafter
18 in accordance with the contract document that we agreed
19 to.

20 Q. At the same time were you participating in
21 negotiations concerning the site with Saint Louis Park?

22 A. At what stage, after we got going with the
23 work or while we were negotiating with Reilly Tar &
24 Chemical? The documents indicate that we were also
25 involved in some discussions with the City of Saint

1 Louis Park.

2 Q. Yes, it was that time frame that I was
3 referring to.

4 MR. McDONALD: Excuse me. I guess I am
5 not clear on what time frame.

6 MR. WAHOSKE: Well, let's try to
7 straighten that out.

8 BY MR. WAHOSKE:

9 Q. Prior to the time that the demolition work
10 actually began, were you involved with negotiations
11 with the City of Saint Louis Park?

12 MR. HIRD: Negotiations about what?

13 MR. WAHOSKE: About demolition of the
14 Reilly Tar.

15 MR. HIRD: Between Reilly and the City
16 of Saint Louis Park?

17 BY MR. WAHOSKE:

18 Q. With reference to conversations between
19 Bolander and the City of Saint Louis Park concerning
20 the demolition of the Saint Louis Park site.

21 A. Were we negotiated with the City while we
22 were negotiating with Reilly?

23 Q. Maybe we should start again. We seem to have
24 too many things on the table at once. First, during
25 the time period from the spring of 1971 until work

1 actually commenced, during which time you were
2 negotiating with Reilly Tar --

3 A. Yes.

4 Q. -- were you also separately negotiating with
5 the City of Saint Louis Park concerning demolition of
6 the Reilly site?

7 A. Documents would indicate I was discussing
8 this project with the City of Saint Louis Park in that
9 I submitted a preliminary estimate during that period
10 of which you speak, and I have some recollection of
11 that. I do not have the feeling that I was ever
12 seriously negotiations with the City of Saint Louis
13 Park; but I was discussing with the City of Saint Louis
14 Park, and I have the feeling I was being used by the
15 City of Saint Louis Park for evaluation purposes.

16 Q. Did you ever feel that you were in essence a
17 go-between between Reilly and the City of Saint Louis
18 Park on this matter?

19 A. I didn't consider myself a go-between. The
20 paper indicates that the City of Saint Louis Park may
21 have intended to -- possibly intended to do some of
22 this demolition work themselves, just to have a portion
23 done by Reilly Tar. Again, I don't recall. I would
24 have to try to reconstruct this from the paper -- my
25 language, documents that are in the file that are my

1 making.

2 Q. Do you remember any three-part negotiations
3 between where three parties participated, yourself,
4 Reilly Tar and Saint Louis Park at the same time?

5 A. No.

6 Q. This is up to the begining of work on the
7 plant that I was referring to.

8 A. I was never involved, to my knowledge, in any
9 three-part negotiations involved with the City of Saint
10 Louis Park.

11 (At this time RTC Deposition Exhibit
12 131 was marked for identification by the
13 Court Reporter.)

14 BY MR. WAHOSKE:

15 Q. Mr. Longman, I will give you now what's been
16 marked as Reilly Tar Exhibit 131. It is simply marked
17 at the top but I gather from the document number at the
18 bottom that it was produced to us I think from the City
19 of Saint Louis Park.

20 MR. WAHOSKE: Kathy, could you help me
21 on that? Do you know the number system? If you can't,
22 that's fine.

23 MS. MARTIN: That's a City number.

24 BY MR. WAHOSKE:

25 Q. I am wondering, Mr. Longman, if you can

1 recall having seen this or a similar document before?

2 A. No. The company in this instance refers to
3 Reilly Tar & Chemical.

4 Q. That would seem to be the reference?

5 A. No.

6 (At this time RTC Deposition Exhibit
7 132 was marked for identification by the
8 Court Reporter.)

9 BY MR. WAHOSKE:

10 Q. Mr. Bolander, I will now give you what is
11 marked as Exhibit 132, and I will ask you now to read
12 it and let me know when you have had that chance. Have
13 you had a chance to read through it, sir?

14 A. Yes. I have gone through it. I would like
15 to go through it again if you have questions you would
16 like to ask me.

17 Q. Let's identify it first for the record. It
18 appears to be an interoffice correspondence, Reilly Tar
19 & Chemical Corporation to T. J. Ryan to H. L. Finch,
20 "Subject: Plant Property," dated February 1, 1972.
21 The second paragraph states, "Today, however, Mr. Ben
22 Longman of the Bolander Company stopped in to discuss
23 the inquiry he had from the City of Saint Louis Park.
24 Mr. Locke, the City Assessor, had contacted Bolander
25 and inquired of Mr. Longman if he had talked to us

1 about a price for the removal of the property. Of
2 course Mr. Longman had talked to us back in June of
3 1971, and informed Mr. Locke that the price we
4 discussed was privileged information between ourselves
5 and Mr. Bolander." Mr. Bauer, do you remember being
6 being contacted by Mr. Locke?

7 A. No.

8 Q. Do you now recall having been contacted by
9 Mr. Locke in the fashion described here in this
10 document?

11 A. I cannot specifically recall that. I don't
12 really question it, but you are asking me if I can
13 recall it.

14 Q. Sure.

15 A. No.

16 Q. Do you have any reason to think that it
17 didn't happen as indicated here?

18 A. Here is a copy of a letter dated February 1
19 that I wrote. It's got my initials on it, and that
20 date corresponds with the date here. I gave them a
21 preliminary estimate. The language -- the date and the
22 language of this letter supports what is written here.

23 Q. Okay.

24 A. But I have no recollection of this.

25 Q. Maybe the next thing we should do then is

1 mark it the next Reilly Exhibit, that letter to which
2 you are referring.

3 (At this time RTC Deposition Exhibit
4 133 was marked for identification by the
5 Court Reporter.)

6 BY MR. WAHOSKE:

7 Q. Let me refer you to now, Mr. Longman, Exhibit
8 133. I believe this is a letter to which you were
9 earlier referring. It is a copy of a document produced
10 to us by Bolander this morning in response to the
11 subpoena. Could you tell me what Reilly Tar Exhibit
12 133 is?

13 A. Reilly -- Exhibit 133 is a letter from Carl
14 Bolander & Sons Company dated February 1, 1972 to the
15 City of Saint Louis Park to the attention of Mr. Al
16 Engen, reference to Republic Creosote property near
17 Walker and Louisiana in Saint Louis Park, in which I
18 submitted a preliminary estimate for series of work
19 items in connection with the Republic Creosote property.

20 Q. Have you seen in the papers we have gone
21 through today or in those other papers that you may
22 have gone through that were produced by Bolander today,
23 any prior written estimates submitted to Reilly Tar
24 concerning the same property?

25 A. Yes, if I understand your question right.

1 Did I give Reilly Tar & Chemical an estimate?

2 Q. A written estimate.

3 A. A written estimate in this form? A written
4 estimate. I again have to get back to the paper. You
5 are asking me things I don't recall. I believe I did;
6 but the document should show that.

7 Q. Well, we will get to some of the later
8 written estimates that you did in fact give to Reilly
9 in the same letter form. I was hoping if you recall
10 going through those --

11 MR. McDONALD: Perhaps it might help Mr.
12 Longman to review the documents from the Carl Bolander
13 & Sons file to see whether there is a written estimate
14 that was provided to Reilly Tar prior to February 1,
15 1972.

16 MR. WAHOSKE: That would be fine.

17 (At this time a brief recess was taken.)

18 BY MR. WAHOSKE:

19 Q. Mr. Longman, have you had a chance to review
20 the documents you were looking at prior to the break?

21 A. Yes.

22 Q. Did you find in there a written estimate to
23 Reilly Tar prior to February 1, 1972?

24 A. I did not.

25 Q. Do you recall one offhand?

1 A. No, I do not.

2 Q. Let's take first then Reilly Tar Exhibit 133,
3 which you have already identified for me as a letter
4 from Carl Bolander & Sons signed or initialed by you to
5 the City of Saint Louis Park to the attention of Mr. Al
6 Engen. You told me before but could you tell me again
7 who Mr. Engen is or was at that time I should say at
8 the City?

9 A. Well, I recall Mr. Engen was a building
10 inspector or a supervisory person, public safety
11 official or some official from the City of Saint Louis
12 Park working in some official capacity at Saint Louis
13 Park.

14 Q. Looking at that letter and looking at the
15 numbered paragraphs, 1 through 9, do you know how the
16 language in there came about?

17 A. It's language that I proposed to describe the
18 work that we had -- that we were quoting.

19 Q. Now, is that work that Saint Louis Park asked
20 you for an estimate of what it would cost to do those
21 things?

22 A. I do not recall specifically what Mr. Engen
23 asked me. The first paragraph states, "We submit as a
24 preliminary estimate the price of \$150,000 for
25 performing demolition and removal work generally as

1 follows at the above referenced location:" That
2 language follows generally some of the language in
3 preliminary worksheets that have my handwriting on them,
4 have my son's handwriting on them.

5 Q. All right.

6 A. In answer to your question, can I say that he
7 asked me specifically for these items. He asked me for
8 a generalized figure I would have to guess.

9 Q. Would this be though a reply to a request
10 from Saint Louis Park to do work for them as opposed to
11 an estimate that you were giving separately to Reilly?

12 A. State that again, would you?

13 Q. Would this though appear to be a reply to a
14 request by Saint Louis Park for an estimate to do work
15 for Saint Louis Park at their direction as opposed to
16 simply telling Saint Louis Park what you are estimating
17 for Reilly? Is that equally as confusing?

18 A. Well, not exactly. Obviously from
19 correspondence of the Reilly Tar & Chemical
20 correspondence there was knowledge on the part of the
21 City of Saint Louis Park and Reilly Tar & Chemical that
22 Reilly Tar & Chemical was negotiating with Carl
23 Bolander & Sons Company for demolition work, and just
24 specifically what Mr. Engen had in mind when he asked
25 me for a quotation or what he told me over the phone or

1 whatever it was, I don't have any written request from
2 him as to what he wanted. There is none of that in the
3 file here. There is merely this estimate in the file.
4 So I would have to guess, which apparently is what you
5 want me to do, what work I was quoting them and what
6 area. I wasn't telling him specifically; but I would
7 give him a guess figure, I would think. Now, you are
8 asking me to pick it out of the sky. I do not recall
9 specifically.

10 Q. Would it be just as likely that he asked you
11 what it would cost us, that is Saint Louis Park, what
12 it would cost to have these things done as opposed to
13 what you were going to charge Reilly to have these
14 things done?

15 A. Would it be just as likely?

16 Q. Yes.

17 A. Could be.

18 Q. Could be?

19 A. Yes.

20 Q. You just don't recall?

21 A. No, I don't recall.

22 Q. Let's refer down to Paragraph 4 of that same
23 later, Reilly Exhibit 133, "Remove and dispose of
24 decomposable wrecking debris." Well, I guess you have
25 indicated you don't recall that well, but do you have a

1 recollection of them asking you about removal or
2 disposal of items from the site?

3 A. I always had the understanding that the
4 decomposables were to be removed from the site and from
5 the City of Saint Louis Park.

6 Q. Do you know where that understanding came
7 about?

8 A. I would just have to think that it came from
9 Mr. Finch because that was where my first -- that was
10 my first contact with the job; but specifically I do
11 not know.

12 Q. Might it have come from Mr. Engen?

13 A. Well, if I do not know, obviously it might
14 have. Certainly, I do not know.

15 Q. Do you recall discussing with Mr. Engen where
16 to dispose of the material in connection with this
17 preliminary estimate?

18 A. No, I do not.

19 Q. Let me refer back to Reilly Tar Exhibit 132,
20 Paragraph 3, Mr. Locke, I believe it's pronounced,
21 "Wanted to discuss the removal of the buildings, et
22 cetera, in more detail with Mr. Longman and explained
23 that they were interested in the removal of the
24 buildings should they acquire the property." Does that
25 indicate to you that this was an estimate that you made

1 for work to do for them as opposed to merely quoting
2 the estimate you were giving Reilly Tar?

3 A. That could be. I don't remember. This is
4 discussion involving some other -- this is written by
5 somebody else other than me without my knowledge and
6 just what these people understood, the people who were
7 involved in this communication, what they understood
8 against what I understood and how they may have
9 confused that from what my thinking was. I can't
10 answer that question.

11 Q. I understand. If you refer back to the prior
12 paragraph, it seems that Mr. Finch is reporting on a
13 conversation that he had with you concerning your
14 conversation with Mr. Locke, and he seems to have
15 written it down here, his recollection of it at least.

16 MR. WAHOSKE: Kathy, would you know
17 offhand if Mr. Engen worked for Mr. Locke at the time?

18 MS. MARTIN: No, I wouldn't.

19 BY MR. WAHOSKE:

20 Q. Do you know that, Mr. Longman, the
21 relationship between Mr. Engen and Mr. Locke at the
22 time?

23 A. No, Mr. Locke was the present assessor or was
24 a year or so ago.

25 Q. It seems to be that he was also the assessor

1 in 1972, according to the text.

2 MR. REIERSGORD: He was. Locke has been
3 the assessor there and I believe Engen worked in
4 Locke's office. I am not positive of that but I
5 believe that's the way it was.

6 Q. Let me refer you down to the last paragraph
7 on that page, Number 5, I guess, "He," and I believe
8 the he refers to you, Mr. Longman, "Definitely
9 expressed that he was very interested in working with
10 us on the removal of the plant buildings, et cetera,
11 and restated that the price he gave us of \$136,000 was,
12 of course, a ballpark figure and he would have to go
13 into more depth and detail when we wanted a firm figure."
14 Would you know offhand why there would be a difference
15 between \$136,000 on the estimate to Reilly and \$150,000
16 on the estimate to Saint Louis Park?

17 A. It would appear from this paper and other
18 papers that I had already given Reilly Tar & Chemical a
19 price of roughly \$136,000.

20 Q. Yes. If I recall back from this earlier June
21 and May of '71 figures, that was the total of your
22 estimate at the time in either May or June of '71?

23 A. I wrote down a figure of \$136,000, and that's
24 the -- that was the figure we finally entered into for
25 which sum we finally entered into a contract.

1 MR. McDONALD: Maybe you can pause here
2 for a minute.

3 BY MR. WAHOSKE:

4 Q. Would you know offhand why the last estimate
5 would be \$136,000 and the other \$150,000, what the
6 difference might entail?

7 A. I think I answered that question somewhat
8 once before, that we were dealing with Reilly Tar &
9 Chemical to the best of my knowledge on a firm basis
10 that we were -- according to my feelings, as I can
11 best recollect them, the City of Saint Louis Park
12 wanted to approximately know what this work would cost,
13 and they were using me for information purposes, and I
14 proposed the Document 132 that you have -- your file
15 states that I had stated that price was confidential as
16 between Reilly Tar.

17 Q. So that the price --

18 A. So I would not give the City -- thinking I am
19 dealing in good faith with Reilly Tar & Chemical, I
20 would certainly not give someone else a lower price. I
21 would give them roughly 10 percent higher.

22 (At this time RTC Deposition Exhibit
23 134 was marked for identification by the
24 Court Reporter.)

25 BY MR. WAHOSKE:

1 Q. Mr. Longman, I am now going to give you
2 what's been marked as RTC Exhibit 134. It appears to
3 be a memo from Richard Brooks to City Manager, and I
4 judge from the number down at the bottom in terms of
5 production it would be City Manager of Saint Louis Park.
6 If you would look on Page 2 of that memo, Paragraph 4,
7 it says, "The structures designated on the City's
8 exhibit, this memo, and as stated on Bolander's quote
9 shall constitute the demolition agreement." Now, let
10 me next give you -- if you would like to finish reading
11 that first, go ahead.

12 A. No, go ahead.

13 Q. I am going to next refer you to a document
14 that we had marked this morning, Reilly Tar Exhibit 117,
15 which says at the top "Schedule B." That is a copy of
16 the document which, as I understand, and, yes, it is
17 one of those that was in the documents produced to us
18 by Bolander this morning. Are you familiar with the
19 handwriting at the bottom of that document, "Plan sheet
20 to refer to"?

21 A. That's something I don't know.

22 (At this time RTC Deposition Exhibit
23 135 was marked for identification by the
24 Court Reporter.)

25 BY MR. WAHOSKE:

1 Q. Mr. Longman, I am now going to hand you what
2 has been marked as Reilly Exhibit 135. That seems to
3 me to be basically a copy of what's already been marked
4 as Exhibit 117 but with different handwritten notations
5 on it. Do you recognize the handwriting on 135?

6 A. Yes, I do.

7 Q. And whose is it?

8 A. Mine.

9 Q. Do you know what this document is and what it
10 refers to?

11 A. It appears to be a proposed schedule of work
12 in which the contractor is to do it.

13 MR. SHAKMAN: Mike, can you read from
14 the original what the handwriting is.

15 BY MR. WAHOSKE:

16 Q. I am going to ask Mr. Longman. Starting at
17 the very left-hand top of Number 135. Does that say,
18 "leave wells"?

19 A. That's says, "leave wells," just below it, "leav
20 water mains." To the right, "June 30, shut down."

21 Q. How about Paragraph B down there, something
22 parenthesis?

23 A. But just below the word cisterns is the
24 number "1" circled. Just below the word cesspools,
25 number "4" circled. In parenthesis just to the right,

1 the word, "sanitary." There are notations down the
2 side of that B and C series. Can you make those out?

3 Q. No.

4 A. Opposite of B it says, "do." C, opposite
5 number 1 C "do". Excuse me. Opposite Number 1 C,
6 "remain." C 2, railroad trackage, "do." C 3, "fencing
7 remain." C 4, piping valves and so forth remain, "do."
8 C 5, piping and platforms "remain." At the very bottom
9 of the page, "Monroe Brown for tank information."

10 MR. SHAKMAN: Mr. Longman, on mine after
11 B there is a word in paranthesis.

12 THE WITNESS: There, paranthesis, "sanitary
13 BY MR. WAHOSKE:

14 Q. Mr. Longman, do you have a recollection of
15 using this document?

16 A. I do not remember using this specific
17 document.

18 MR. McDONALD: For the record now,
19 that's Exhibit 134 we are referring to?

20 MR. WAHOSKE: Exhibit 135.

21 A. No recollection sitting here without the
22 document, a recollection of using it without having
23 reviewed the document, no.

24 Q. Have you had a chance to look at Document 135?

25 A. Well, yes, I have looked at it.

1 Q. Do you recall making those notations?

2 A. I would answer it the same way. I do not
3 have a recollection of making these notations; but they
4 are my handwriting.

5 Q. Do you recall having seen drafts of the
6 purchase agreement to be signed between the City -- yes,
7 between the City of Saint Louis Park and Reilly prior
8 to the signing of that agreement?

9 A. No.

10 Q. Do you recall having seen parts of those
11 drafts?

12 A. No.

13 Q. Might you have?

14 A. I do not even recall there having existed a
15 purchase agreement prior to our signing a contract. So
16 I can't have any reason to believe that I would have
17 seen a copy. I do not know that.

18 Q. Do you know how this Reilly Exhibit 135 would
19 have come into Bolander possession?

20 A. Since it is in our file and it has my
21 handwriting on it, I have to believe that it was give
22 to me by Reilly Tar & Chemical. I believe it was given
23 to me by Mr. Herb Finch in the course of our original
24 discussions.

25 Q. Might it also have been given to you by

1 someone from the City of Saint Louis Park, if you know?

2 A. I do not recall the City of Saint Louis Park
3 giving me anything like that.

4 Q. Let me refer you now again to Reilly -- I
5 believe it's 134, the memo, Page 2, Paragraph 4. "The
6 structures designated on the City's exhibit, this memo,
7 and as stated on Bolander's quote shall constitute the
8 demolition agreement." Might this Schedule B be what
9 is being referred to as the City's exhibit?

10 MR. McDONALD: I am going to object to
11 that question. It calls for speculation on the part of
12 the witness, and I guess I would object to it. You can
13 answer it if you can?

14 A. I don't know what he is talking about. It's
15 the City's exhibit.

16 Q. That's part of what I am curious about since
17 it's stated in connection with Bolander quote. The
18 next question I was going to ask I guess is would you
19 have any idea what quote they are talking about?

20 A. This memo is from the City Manager to Richard
21 Brooks. This is an interoffice memo from the City of
22 Saint Louis Park, interoffice memo.

23 MR. REIERSGORD: From Mr. Brooks?

24 BY MR. WAHOSKE:

25 Q. From Mr. Brooks to the City Manager?

1 A. From Mr. Brooks to the City Manager. I would
2 have no knowledge of his memo. I didn't know there was
3 one until now, and I don't know what City's exhibit we
4 would be talking about and whether or not -- there is
5 no date on this memo, where they are talking about the
6 Bolander quote to Reilly Tar & Chemical or Reilly had
7 furnished them or whether it's my letter to Mr. Al
8 Engen. I don't know what you are talking about.

9 Q. Well, I was curious if you know what they
10 might be talking about. It could be that quote that we
11 talked about before, the February 1 1982 letter of
12 yours to Mr. Engen.

13 A. I don't know.

14 Q. And Reilly 135, you recognize that as your
15 handwriting, but right now you don't have a
16 recollection of a document beyond that?

17 A. That is correct.

18 Q. We may come back to that.

19 (At this time RTC Deposition Exhibit
20 136 was marked for identification by the
21 Court Reporter.)

22 BY MR. WAHOSKE:

23 Q. Mr. Longman, let me now hand you what has
24 been marked as Reilly Exhibit 136 and ask if you can
25 identify that for me, please?

1 A. It is a letter from Carl Bolander & Sons
2 Company dated March 3, 1972 signed by B.F. Longman,
3 addressed to Reilly Tar & Chemical. It's a letter to
4 the attention of Herb Finch, Minneapolis plant removals
5 and clean-up.

6 Q. And you said that was dated March 3, 1972?

7 A. Yes.

8 Q. If we might, let's go through this document.
9 Would you like a chance to read it first?

10 A. That doesn't help me much.

11 Q. It begins, "We submit a proposal to perform
12 demolition, removal and clean-up procedures at the
13 above referenced site at follows: 1. Demolition of
14 buildings and any attachments thereto as listed below
15 to a level 12 inches below surrounding grades." And
16 then a series of buildings with numbers after that is
17 listed. Do you know what those numbers correspond to?

18 A. Well, they are stated as numbers of buildings.

19 Q. Right. *

20 A. Building Number 1 I recall is the office, so
21 I expect others are different buildings.

22 Q. Would you expect those to correspond to the
23 numbers on the map we got from Bolander today, Reilly
24 115?

25 A. I would expect they would correspond.

1 Q. How would you have come up with a figure of a
2 level 12 inches below surrounding grades? Is that
3 something you would have been asked for by Reilly?

4 A. Not necessarily. That might have been my
5 recommendation. We frequently quote we will remove to
6 grade level 18 inches below, 24 inches below, we will
7 remove to footing level, specific level below
8 surrounding grades.

9 Q. Referring down to Numbers 2 and 4, 2 begins,
10 "Removal of below listed tanks completely and
11 demolition of supporting pads or legs 12 inches below
12 surrounding grades." In 4 he refers to, "Removal of
13 retaining walls, power poles, miscellaneous piping,
14 fencing and and miscellaneous debris as necessary to
15 leave site in neat and workmanlike condition." What,
16 to the extent you recall, did removal mean there?

17 A. It would remove it from the site, or remove
18 it not necessarily from the site, remove it as a
19 structure. For instance, you had a brick retaining
20 wall you would cause it to cease existing as a
21 retaining wall and if it would break up into small
22 enough pieces and they were free of -- they were
23 masonry and suitable for fill on the site as otherwise
24 listed as backfill for basements and low area you would
25 use it for that. It would no longer exist as a

1 retaining wall.

2 Q. Then going down to Number 5 on that same
3 letter it says, "Brick and concrete rubble under 12
4 inches shall remain on site. Wood and other
5 decomposables shall be removed." Would you understand
6 that to be removed from the site?

7 A. Removed from the site.

8 Q. What would be "other decomposables"?

9 A. Wood, a lot of wood, rags and wood buildings
10 mostly, if there is that kind, paper.

11 Q. Do you recall at the time this proposal was
12 made, March of '72, where that removal was going to
13 occur to?

14 A. Where those products would be intended to be
15 disposed of?

16 Q. Yes.

17 A. At Bolander's disposal site.

18 Q. Where was that?

19 A. South Saint Paul, what we call the Concord
20 Disposal.

21 Q. Do you remember who suggested that as a site?

22 A. I expect it would have been me because that
23 had been our disposal site for years and still is.

24 Q. Generally use that for disposing of materials
25 from your demolition projects?

1 A. Generally this type of material we would
2 dispose of at that particular site.

3 Q. Number 6, "Boiler plant will be left
4 operational and functioning for contractor's use in
5 steaming and cleaning operations in the course of
6 removal." What contractor's use would be contemplated
7 by that?

8 A. These residues that were left on the site,
9 steam helped to remove them -- those residues, the
10 bottoms of tanks, and get them free of the metal so we
11 could cut the metal without setting them on fire. They
12 would be softened by the steam, fall free in many
13 instances. Heat was made by the steam.

14 Q. On the next page of the same exhibit, Number
15 7, "All salvageable materials and equipment become
16 contractors property. Permits, utilities, cut offs,
17 insurance shall be provided by contractor." First, "salva
18 materials and equipment," generally to what might that
19 have referred?

20 A. There were thousands of tons of railroad
21 track. There were many of the railroad ties that were
22 good. There was much iron that was -- the tanks were
23 steel tanks, you would have to cut them up to remove
24 them. You don't haul them to a disposal site, you take
25 them to a junk yard and sell them for scrap steel, this

1 type of thing. There were some pieces of machinery, as
2 I recollect, vaguely. There were a few pieces of
3 machinery. Salvageable, some windows were usable to a
4 salvage contractor.

5 Q. The next sentence of that Paragraph Number 7,
6 "Permits, utilities, cut offs and insurance shall be
7 provided by contractor." We talked about this
8 generally before, but specifically now do you recall
9 what sort of permits were contemplated for this job?

10 A. Not beyond what I have answered previously.
11 A recking permit but --

12 Q. There would be a permit required for hauling
13 any debris off the site?

14 A. No.

15 Q. What sort of insurance would have been
16 contemplated?

17 A. Liability insurance, Workman's Comp.

18 Q. Liability for?

19 A. General liability.

20 Q. The next paragraph, "Our lump sum price for
21 the above work is \$115,000." As I recall, I wish I
22 could find the number, your February 1, 1972 offer to
23 Saint Louis Park, it's Number 133, the total is
24 \$150,000. Would you take a moment to look at 133 as
25 compared with 136 and tell me, based on the items

1 listed in the proposal, what might have caused the
2 difference in price?

3 A. I have looked at that a little bit prior to
4 now. Without being on the site and viewing the whole
5 site and the whole -- being able to interpret what is
6 included here and what is included over here, I am not
7 now able to sit here and answer that.

8 Q. Okay.

9 A. I obviously do not have the same items quoted
10 for 150 that I would have for 136 or 115. But I would
11 have to cite a very complex set of conditions in front
12 of me. I am not able to answer your question.

13 (At this time RTC Deposition Exhibit
14 137 was marked for identification by the
15 Court Reporter.)

16 BY MR. WAHOSKE:

17 Q. Next, Mr. Longman, I will hand you what has
18 been marked as Reilly Exhibit 136. Can you tell me if
19 you could identify that, please?

20 A. A letter from Carl Bolander & Sons Company
21 dated March 8, 1972 to Reilly Tar & Chemical, attention
22 Mr. Herb Finch.

23 MR. McDONALD: He is handing you this
24 one.

25 BY MR. WAHOSKE:

1 Q. I don't mean for you to be confused.

2 A. The exhibit you handed me is a letter from
3 Carl Bolander & Sons Company dated March 8, 1972, from
4 Carl Bolander to Reilly Tar & Chemical, attention Herb
5 Finch, reference Minneapolis plant removal and clean-up
6 of plant.

7 Q. Now, there appears to be some handwriting on
8 it. First off, from what you can tell is that your
9 signature on Page 2 of the exhibit?

10 A. Yes, it is.

11 Q. Do you recognize the handwriting?

12 A. No, I do not.

13 (At this time RTC Deposition Exhibit
14 138 was marked for identification by the
15 Court Reporter.)

16 BY MR. WAHOSKE:

17 Q. I am now going to hand you what has been
18 marked as Reilly 138. Mr. Longman, I believe that that
19 is a copy of a March 8, 1972 letter as produced by
20 Bolander this morning. I may be wrong on that. Is
21 that the handwriting in the left-hand -- yes, it is.
22 Then that is the one. Can you identify that for me,
23 please?

24 A. It's a letter from Carl Bolander & Sons
25 Company to Reilly Tar & Chemical, attention Herb Finch,

1 dated March 8, 1972 reference Minneapolis plant
2 removals and clean-up, our plan furnished us 2-25-72 by
3 Mr. Finch.

4 Q. If you could refer back to Reilly Number 137.
5 Absent the handwriting or discounting the handwriting
6 for a moment, do those appear to be the same letters?

7 A. Yes, they do.

8 Q. Out of curiosity, why on Page 2 of Number 137
9 is it your last name written out on Page 2 of 138?
10 It's just the initial "L".

11 A. The Exhibit 138 is from Bolander Company
12 files. I frequently initial letters in that manner or
13 documents in that manner when I put them in the file
14 knowing that I have sent them out, they are my letter.

15 Q. That helps with that.

16 A. The 137 signature would have gone to the
17 customer or to the person with whom I was dealing, I
18 would sign my name in full.

19 Q. Referring to 138, Page 2, it appears to be
20 some handwriting opposite the paragraph beginning, "The
21 boiler plant." Could you, by looking at the original,
22 tell us what that handwriting is?

23 A. Middle of July.

24 Q. Is that your handwriting?

25 A. Yes.

1 Q. Let me now refer you back again to 136. 136
2 is the March 3 letter. 138 is the March 8 letter. Do
3 you recall what negotiations occurred in the space of
4 those two letters?

5 A. No.

6 Q. Would you have talked to Saint Louis Park in
7 between the time of those two letters?

8 A. I do not have any recollection of it. Maybe
9 somebody could establish that I did but I do not have
10 any recollection.

11 Q. Do you know if there would have been a new
12 site inspection between the two letters? Is that
13 likely or even possible?

14 A. Exhibit 124 shows a price at one stage of
15 \$115,000. Exhibit 124 is dated the 3rd of March 1972.
16 There is an item of \$3,000 that's been added to that
17 115, below grade tunnels, piping, plus additional
18 something or other that brings that piece -- that
19 document up to read \$118,000.

20 Q. And that's the price quoted on the March 8
21 letter?

22 A. Exhibit 124, plus 136, 138 would indicate
23 there is a change in the price based on the addition of
24 a tunnel.

25 Q. Referring then to Paragraph 8 of the March 8

1 letter, Number 138, Exhibit 138, it says,
2 "Remove container residues and dispose of off site."
3 Is that a change from the March 3rd letter?

4 MR. McDONALD: Excuse me, counsel. I
5 missed that last question, could we have it read back?
6 BY MR. WAHOSKE:

7 Q. I think I can remember part it of. Referring
8 to Number 8 of Exhibit 138 which reads, "Remove
9 container residues and dispose of off site," is that
10 also a change from the March 3rd proposal?

11 A. I doubt that it was really intended to be a
12 change. The residue was not mentioned in the March 3
13 letter as I see it here, but I can hardly remove the
14 tanks without removing the residue.

15 Q. Let me refer you to Page 2 of 138, paragraph
16 under Number 10 which reads, "Tanks, containers and
17 piping are to be emptied of product by the owner." Is
18 that a change from the March 3rd letter -- March 3rd
19 proposal I should more accurately say?

20 A. I don't believe that there was intent to be
21 any change. It was always understood there would be no
22 product, there would be only residue.

23 Q. In terms of your --

24 A. It says we would remove the residue. Just
25 how I happen to write the two letters, this Number 136

1 of yours is a price based on something that my son put
2 together, different than what I originally looked at.
3 I don't know what, again, without having all this in
4 front of me and him, I can't answer these questions
5 sensibly, other than just try to put it together on
6 pieces of paper and how we do business, how we
7 negotiate a job of this kind over a long period of time.

8 Q. Referring you to Paragraph 7 of the March 3,
9 Exhibit 136 letter, and contrasting with Paragraph 10
10 of March 1, Exhibit 138 letter --

11 MR. McDONALD: I think it might sound
12 confusing for the record. When you are referring to
13 136 --

14 BY MR. WAHOSKE:

15 Q. Referring to Exhibit 136, Paragraph 7, the
16 second sentence refers, "Permits, utilities, cut offs
17 and insurance." Comparing that to Exhibit 138,
18 Paragraph 10, that exhibit, 138 says,
19 "Furnish permits required for our work and provide
20 evidence of insurance with limits to \$5 million."
21 Does that represent a change in the sense of the dollar
22 figure having been negotiated for or is it merely
23 filled in on the second, or do you recall?

24 A. At that time we furnished \$5 million in
25 connection with our work as a standard item. Permits

1 were a standard item. Utility cut offs were a standard
2 item unless you exclude them. They had to be taken
3 care of in connection with your work. To obtain a
4 permit you had to -- a wrecking permit you had to be
5 responsible for the utility cutoffs. These are
6 mandatory items. Insurance is mandatory. \$5 million
7 was standard. We furnish \$20 million now as a standard
8 item. This is just taken for granted, it is part of
9 the language you are using.

10 Q. Referring again to 138. Exhibit 138, Page 2,
11 you indicated that the handwritten notation there says,
12 "The middle of July." Could you tell me to what that
13 refers?

14 A. Someplace or other it is written that the
15 plant will be kept in operation by Reilly Tar &
16 Chemical Corporation. Two weeks of our service we were
17 roughly to start -- I have some recollection of my
18 notes indicating that it would be kept in operation
19 until the middle of July. That would be the indication,
20 but again I do not recall the discussion.

21 Q. Again, referring to 138, paragraphs 7 and 8
22 in particular, which refers to disposal off site, that
23 would be the same off site disposal you were talking
24 about before, disposal at your Concord dump site?

25 A. Yes, we always had in mind one disposal

1 concept, one concept with the respective debris and
2 that which could remain and that which must be disposed.

3 Q. Paragraph 8, "Remove container residues and
4 dispose off site." It was contemplated then that those
5 would also go to the Concord dump site?

6 A. Containers would refer to tanks?

7 Q. Right.

8 A. Yes, we would dispose of the residues.

9 Q. And the thought was, as best you remember,
10 that that would go to your Concord site?

11 A. Yes.

12 Q. I suppose while we are on that subject, in
13 connection with the actual disposal of container
14 residues or other materials from the site, do you know
15 if they were taken to other places besides your Concord
16 site?

17 A. Our foreman has said they were and -- our two
18 foremen, the people that were on the job site, say they
19 were and I have some vague recollections that the
20 material was also taken to other sites. We used it at
21 the Concord dump for dusty conditions, hauling problems,
22 road problems. This material mixed with sand and dirt
23 on this site made a nice 40 foot wide road for us at
24 Concord. I have vague recollections that we also used
25 this material in connection with other construction

1 sites, but that's only vague, it served that purpose.
2 You could build a construction road out of it by taking
3 it and mixing it with the site and it would form a
4 blacktop road for you. With respect to other sites, my
5 recollection is that vague, that we did use it at other
6 construction sites. In fact, I am quite certain of
7 that but I just can't spell it out. It was a very
8 suitable material for that.

9 Q. Do you recall in Anoka, a site in Anoka, a
10 dump site up there?

11 A. No.

12 Q. That's the one I think that William Bauer
13 mentioned this morning as a place where some container
14 and other residues may have been taken. Do you have
15 any recollection of that?

16 A. No, I have no recollection.

17 Q. As I recall from Mr. Bauer's testimony this
18 morning, he mentioned that he did not himself make the --
19 I think he said that he did not himself make the
20 decision as to where a particular batch, if you will,
21 of residue would be taken, which dump site. Do you
22 have any recollection of making decisions as to where
23 something would go like that?

24 A. Other than to the Concord -- the original
25 decision with respect to the Concord disposal site, no.

1 Bolander at that time had many construction projects
2 going on with foremen or superintendents in charge of
3 different areas and different projects and they could,
4 through the general superintendent, make arrangements
5 to have some of this residue product that we were
6 referring to brought to their sites for stabilization --
7 soil stabilization and the building of roads. For
8 instance, in this same connection we used brick. We
9 have wet and muddy conditions, we always want broken up
10 brick with which to build a road. If you get some
11 material like this, either grade blacktop or preferably
12 a material of this kind to go with it, it makes you a
13 fine temporary road. So this kind of shifting could be
14 going on within the company and the general
15 superintendent would merely tell Bill to send the
16 trucks over here or there or elsewhere, meaning Bill
17 Bauer.

18 Q. The general superintendent for this project
19 would have been Ken Moe?

20 A. Well, we have a general superintendent. Ken
21 Moe is not the general superintendent. Whether the
22 present general superintendent was the one at that time,
23 I don't know.

24 Q. That was my next question. Do you recall who
25 would have been the general superintendent at that time?

1 A. No, I do not.

2 Q. Do you remember what Ken Moe's involvement
3 was at that time?

4 A. Ken Moe was in between myself and Bill Bauer.
5 Ken Moe was doing some estimating work at that time.
6 In addition to that, he was learning some jobs and he
7 would have a foreman or two or three working under him
8 as a senior foreman. He moved from that stage to now
9 being an estimator with doing a small amount of general
10 supervisory work.

11 (At this time RTC Deposition Exhibit
12 139 was marked for identification by the
13 Court Reporter.)

14 BY MR. WAHOSKE:

15 Q. Mr. Longman, next is Number 139. This is a
16 memo on Reilly Tar inter-office correspondence
17 stationery to T. J. Ryan from H. L. Finch, dated March
18 14, 1972, "Subject: plant property." If you would be
19 so kind to take a moment to read through it I have some
20 questions I would ask you about it.

21 A. That's really not any different than what I
22 have been talking about.

23 Q. A couple questions about it. First, does it
24 appear to you after having read through this, that
25 whether you knew it or not you were pretty much in fact

1 serving as something of a go-between between the City
2 and Reilly in connection with their dealings with each
3 other?

4 MR. McDONALD: I think, for the record,
5 I am going to object to that again as calling for Mr.
6 Longman to speculate. I would instruct Mr. Longman if
7 he can't answer that question he shouldn't do so.

8 MR. WAHOSKE: My next question will
9 follow up on that.

10 A. Give me that a question again.

11 Q. Does it appear to you now that you were being
12 something of a go-between between you and between
13 Reilly and the City at that time?

14 MR. HIRD: Objection, asked and answered.

15 BY MR. WAHOSKE:

16 Q. Does it appear to you now, after having read
17 this document, et cetera?

18 A. You are asking me now if it might appear
19 after having this memorandum, which I have not
20 previously signed, if I was not in fact an errand boy,
21 as someone assisting them in their negotiations.

22 Q. Yes.

23 A. You were asking me in light of this document?

24 Q. Yes.

25 A. This memorandum?

1 Q. Yes, and your general understanding of what
2 happened at the time.

3 MR. McDONALD: Same objection, but go
4 ahead and answer if you can. You are asking him to
5 speculate.

6 A. This memorandum would indicate that there
7 were contacts going on with Reilly and the City of
8 Saint Louis Park at the same time there were contacts
9 being made with me. Beyond that I have suspicions as
10 to what they were doing and what their intentions were.
11 This would appear that their intent was to use me as a
12 messenger boy.

13 Q. Having looked through it, do the
14 representations in this memo as to conversations
15 between the writer, Mr. Finch, and yourself, appear to
16 you to be accurate?

17 MR. McDONALD: I am going to object to
18 that again. I guess at least on a dual reference basis,
19 did they appear to be accurate then or now? Does that
20 include his knowledge at that time or his knowledge at
21 this time? I think the question is a little vague and
22 indefinite as to time and the extent of his knowledge
23 at the time.

24 MR. WAHOSKE: I will withdraw it and
25 rephrase it then.

1 BY MR. WAHOSKE:

2 Q. After having read through now, Mr. Longman,
3 do you have any reason to think now that the
4 representations in here, insofar as they relate to you,
5 are inaccurate?

6 MR. McDONALD: I guess I am still
7 uncomfortable with that question. I will object to the
8 reference to representations. I guess there are a lot
9 of different things talked about in this three page
10 single spaced memo and I am a little bit uncomfortable
11 with using the broad term "representations."

12 MR. WAHOSKE: We can go through it piece
13 by piece.

14 MR. McDONALD: I will object for the
15 record. If Mr. Longman can answer that I will instruct
16 him that he may answer it, but I would like my
17 objection to be at least noted for the record.

18 A. I have already answered yes and no when I can.
19 I have answered on the basis of documents that I
20 haven't seen for 12 years as best I could reason and
21 remember and now you are asking me to compound the
22 projections I have made off of that with something I
23 can make off of here. You are compounding the thing.
24 Once was enough and you are asking me to do it a second
25 time.

1 Q. Well, let me --

2 A. I am not a trained lawyer, I can't sit and
3 bounce all these things back and forth and do this hour
4 after hour endlessly and be sure I am answering
5 precisely correct with respect to what I think you are
6 asking me. I don't know really what you are asking me.

7 Q. Let me refer you to Page 2 of Reilly 139, the
8 third paragraph there which begins, "Mr. Longman
9 explained".

10 A. Yes.

11 Q. "It would be more economical to go in and
12 take out everything without having to worry about
13 picking and choosing." Does that seem accurate?

14 A. Well, it seems sensible. I don't know
15 whether it's accurate or not. I don't know whether I
16 told him that or not. I can't recall that, but it's
17 certainly sensible. If it was sensible at the time I
18 probably put it in there.

19 Q. Referring down to the next paragraph, "Mr.
20 Longman visited the plant last week," I guess that
21 would be -- well, it's hard to tell first or second
22 week of March?

23 A. He says over here on the first page that he
24 wrote this letter back on the 3rd of March.

25 Q. It could be before that. Do you recall

1 making a visit to the plant around March?

2 A. No.

3 Q. If you don't, that's fine.

4 A. No.

5 Q. The next paragraph, in the middle, "The City
6 of Saint Louis Park also visited us last week and
7 looked over the buildings again with Mr. McPhee and Mr.
8 Brooks being the visitors. They in turn had called Mr.
9 Longman and they wanted his proposition on an
10 additional removal. It seems Mr. Brooks wanted
11 Bolander to give him a price on removal of all
12 foundations and caps on piling. What he wanted was all
13 concrete caps and footings to be removed but he did not
14 care if the piling was left in the ground." Do you
15 have any recollection of that?

16 A. No.

17 Q. The next paragraph, "After going over the
18 City's question with Mr. Longman, and referring to the
19 prints and the dock and the treating plant, I explained
20 that we did not want to consider the City's request as
21 part of our proposal to the City and he was to proceed
22 and get me a revised quotation in line with our
23 discussion of March 6th with Mr. Reiersgord. I was
24 quoted then a price of \$118,000 with a copy of said
25 letter attached." Do you have any recollection of

1 going over the City's request?

2 MR. McDONALD: I guess again I will
3 object to that. I think it's vague and indefinite in
4 what the City's request is. If you could maybe either
5 clarify that or if you want to try to answer that yes
6 you may try. But I think what the City's request is
7 could be the whole project, it could be just this
8 additional removal of the piling caps and foundations,
9 and without further specification I guess I will object
10 to it being vague and indefinite.

11 MR. WAHOSKE: Well, I wish I knew
12 exactly what it was referring to as well, David. But
13 to the extent that Mr. Longman has a recollection
14 perhaps he could give it to us.

15 MR. McDONALD: I would just like to have
16 my objection stand. If Mr. Longman can pick it out,
17 more power to him.

18 A. I do not know what the City's request was.

19 Q. Might it have been the item referred to in
20 the previous paragraph, "Mr. Brooks wanted Bolander to
21 give him a price on removal of all foundation and caps
22 on piling."

23 A. What they called the dock and the treating
24 plant were more heavy structures, as I recall, than
25 were others. Some of the structures out there, the

1 heavier ones than those that carried heavy loads, were
2 on pilings and the concrete and the structure of those
3 facilities were considerably heavier than other
4 structures, which brings to mind that there was some on
5 and off discussion about how far down we would go in
6 connection with the removal of those heavier structures.
7 But this is, again, one of the documents that you have
8 presented here and my recollections bare out there was
9 a lot of come and go and give and take over a year
10 before we finally arrived at just what was to be
11 removed and what extent it was to be removed and
12 apparently the City and Reilly Tar & Chemical couldn't
13 decide what they wanted removed and the price that we
14 were quoting on the various items and the changing of
15 prices had something to do with their decisions.

16 Q. During the course then of that year you
17 recall negotiating separately -- discussing separately,
18 at least, removal with the City?

19 A. No, I cannot say that I negotiated --
20 discussed separately. This memorandum mentions a Mr.
21 McPhee. I remember a man by the name of Mr. McPhee
22 because I had other dealings with him. We did lots of
23 other work in the City of Saint Louis Park besides this
24 one. He was an inspector. The man Brooks I do not
25 remember. Now, their involvement here with Reilly Tar

1 & Chemical, I have no recollection of that -- who the
2 parties were that were dealing on behalf of the City of
3 Saint Louis Park I had no knowledge of. I was dealing
4 with Mr. Finch and I did submit a letter.

5 Q. If you don't recall the specific person, do
6 you recall discussions with people representing Saint
7 Louis Park, separate discussions from those you had
8 with Mr. Finch?

9 A. No, I do not other than Mr. Al Engen and
10 whatever discussions I had with a letter that I
11 submitted to him

12 (At this time RTC Deposition Exhibit
13 140 was marked for identification by the
14 Court Reporter.)

15 BY MR. WAHOSKE:

16 Q. Mr. Longman, I will now give you what's been
17 marked as Number 140, Reilly Tar, and ask you if you
18 can identify that for me, please?

19 A. It is a letter from Carl Bolander & Sons
20 Company to the City of Saint Louis Park, attention Mr.
21 Richard Brooks, and it is dated March 15, 1972, and it
22 is referenced to Republic Creosote Property near Walker
23 and Louisiana in Saint Louis Park.

24 Q. Are those your initials?

25 A. Those are my initials, my handwriting.

1 Q. Could you tell me what this document
2 represents?

3 A. It says, "We submit the following quotation
4 to perform demolition, removal and work at the above
5 referenced site." I have 1, 2, 3 and 4 and 5, a total
6 price of \$42,000.

7 Q. As I recall your February 1, 1972 letter to
8 the City of Saint Louis Park was a proposal for
9 demolition, et cetera, for a lump sum price of \$150,000.
10 I take it that in between the two of those there were
11 some further discussions with Saint Louis Park?

12 A. The \$150,000 letter dated February that you
13 referred to is a letter to Mr. Engen.

14 Q. I think it's a letter to the City of Saint
15 Louis Park, attention Mr. Engen.

16 A. All right. This letter is to Mr. Brooks,
17 attention Mr. Brooks, of the City of Saint Louis Park.
18 I do not recall writing this letter. I obviously did
19 write it, this letter.

20 (At this time a brief recess was taken.)

21 BY MR. WAHOSKE:

22 Q. Mr. Longman, let me refer you back to Reilly
23 139, in particular the names of what appear to be Saint
24 Louis Park officials in Paragraph 1, Mr. William
25 Thybolt, Richard Brooks, David Rudberg, Robert Locke,

1 and Harvey McPhee. Do you know any of these gentlemen?

2 A. I have never heard of name Thybolt. Richard
3 Brooks I did not know, supervisor. City Engineer, no.
4 Robert Locke, I know the name now because I was a
5 witness for Hennepin County on another matter. Harvey
6 McPhee, prior to the Reilly Tar & Chemical demolition
7 and subsequent to it I have had some experience with
8 him, not in any recent years but he was an inspection
9 person. I did know him.

10 Q. Can you recall any other Saint Louis Park
11 officials at the time that you spoke with concerning
12 the Reilly Tar site? Just names I guess is what I am
13 interested in now.

14 A. I think just to talk to this Mr. Engen over
15 the phone, since I wrote him a letter.

16 Q. Any others come to mind?

17 A. No.

18 (At this time RTC Deposition Exhibit
19 141 was marked for identification by the
20 Court Reporter.)

21 BY MR. WAHOSKE:

22 Q. I am going to hand you what has now been
23 marked as Reilly Tar Exhibit 141. You will note that
24 it looks like a letter from Bolander to Reilly, but I
25 note that the copy that I have given you and the copy

1 that I have is not signed, nor does it appear to be at
2 least on Bolander stationery. I am wondering if you
3 can identify it for us?

4 A. It says, "Reference to a portion of the Saint
5 Louis Park plant laying westerly of proposed
6 extension."

7 Q. Do you have any recollection of that letter?

8 MR. McDONALD: Take your time and read
9 it through. Any recollection Mr. Longman?

10 A. No.

11 Q. Might it have been carbon copied attached to
12 something else?

13 A. The first paragraph states, "Removal and
14 clean-up work in a workmanlike manner." "In a
15 workmanlike manner," I recall using that term in times
16 past, but that's not a natural term for me to use. In
17 Paragraph 13, "Shall be contractor's property as
18 released by owner when not necessary for production."
19 I do not recall anything of that kind. We got the
20 plant when it was shut down, it is my recollection. I
21 have no way of accounting for that. I have those --
22 particularly this workmanlike manner, this is a takeoff
23 of some kind is my first impression of something that I
24 read.

25 Q. Thank you. Let's mark next 142.

1 A. I can't imagine a document going out without
2 my signature going on it of some kind without reference
3 to a file

4 (At this time RTC Deposition Exhibit
5 142 was marked for identification by the
6 Court Reporter.)

7 BY MR. WAHOSKE:

8 Q. Number 142, which I am handing to you now,
9 Mr. Longman, is a copy of one of the documents given to
10 us in response to the subpoena by Bolander this morning.
11 Can you identify it for me?

12 A. The agreement for land clearing, contract
13 document.

14 Q. Referring you to Page 4 thereof, two
15 signature spaces on the copy that I have shows what is
16 apparently your signature but no signature for Reilly
17 Tar. Is that your signature for Carl Bolander & Sons?

18 A. Yes.

19 Q. Would this be a copy of the draft you sent to
20 Reilly for signature?

21 A. Where did you say this copy came from? It
22 was furnished to you by Bolander Company?

23 Q. Yes.

24 A. Then it would have been a copy.

25 Q. Well, let me ask this. Do you recall who

1 prepared the draft agreement for clearing land between
2 Reilly and Bolander, would that be a document?

3 A. I did not prepare this contract document. I
4 believe it was prepared -- it is my recollection it was
5 prepared by either Republic Creosote, Herb Finch, or
6 Reilly Tar & Chemical or their representative.

7 Q. Would there be a reason why you would have
8 signed it and Reilly would not have signed this
9 particular document?

10 A. I don't know why.

11 Q. Okay.

12 A. I don't recall why.

13 Q. Let me next give you what I guess will be 143.

14 (At this time RTC Deposition Exhibit
15 143 was marked for identification by the
16 Court Reporter.)

17 BY MR. WAHOSKE:

18 Q. Mr. Longman, I will now give you what is
19 marked as Reilly 143. This also is a copy of a
20 document given to us by Bolander this morning, and I
21 will ask if you can identify that for me, please?

22 A. It's a copy of a contract, "Agreement for
23 Clearing Land."

24 Q. Does it at least appear to be the same
25 agreement that 142 --

1 A. It appears to be the same document, that is
2 with respect to the first four pages.

3 Q. If you could help me, is that your signature
4 on Page 4 of Reilly 143?

5 A. Yes, it is.

6 Q. Let's perhaps go through, if you can, and
7 help me on my copy. Some of the handwriting doesn't
8 appear all that clear. Page 1 of 143 at the top, there
9 appears to be a notation "Job 668." Is that your
10 handwriting, do you know?

11 A. No, it is not.

12 Q. I notice you are referring to the original.
13 Is that what the original seems to read, "Job 668"?

14 A. Yes.

15 Q. Referring now down the left-hand column,
16 there is a notation directly opposite the Reilly Tar &
17 Chemical word in all caps. Can you read what that is
18 on the original?

19 A. "INV." That means invoice.

20 Q. Does that look like your handwriting?

21 A. No.

22 Q. Under Reilly Tar & Chemical it appears to
23 have written in, "7200 Walker." Is that your
24 handwriting?

25 A. No.

1 Q. Down opposite the lot description there is a
2 bracket and it appears to be "DEL", is that what it
3 looks like on the original?

4 A. Yes.

5 Q. Is that your handwriting?

6 A. No.

7 Q. Do you know what it means?

8 A. No.

9 Q. No?

10 A. No. There is a letter pointing to City and
11 DEL, I don't know what that means.

12 Q. There is along the left-hand margin a
13 notation which is not at all clear on mine. Is that in
14 your handwriting?

15 A. No.

16 Q. Could you read it for us from the original?

17 A. "Furnish equipment and labor to perform
18 demolition and related work."

19 Q. How about at the bottom of that Page 1, there
20 are some dates and figures. Do you recognize any of
21 that as your handwriting?

22 A. They are not my handwriting.

23 Q. Could you perhaps help us by reading those
24 from the original?

25 A. On the left side the date is "5-31-72

1 Estimate Number 1, \$26,000." The second item, "6-29
2 Estimate Number 2, \$56,000." Item 3, "7-31 Estimate
3 Number 3, \$76,000." Moving to the right, "Meet
4 estimate \$136,000." The last item on the right,
5 "12-20-72 final \$136,000."

6 Q. You will notice throughout that whole page a
7 large marking sort of in the shape of an M or an E. Do
8 you know what that is or would mean?

9 A. The secretary at Carl Bolander and Sons
10 Company, his name is Erickson. When the project is
11 completed that's his signature.

12 Q. He puts that on when the project is done?

13 A. Yes, that's his handwriting and he puts that
14 on when the project is complete.

15 Q. Let me refer you to Page 4. There seems to
16 be an address written here. Is that also the same
17 person's signature, is that Mr. Erickson, not signature
18 by handwriting?

19 A. "11 South Meridian Street."

20 Q. Yes.

21 A. That's my handwriting. That's in my
22 handwriting.

23 Q. Is that Reilly's address in Indianapolis?

24 A. I would only guess, I don't know.

25 Q. Let me refer you now to Exhibit A attached to

1 the same exhibit. There is indicated there in the
2 lower left-hand side something that's typed out and
3 then scratched over. Can you read on the original what
4 was typed out?

5 A. "Exhibit A, Page 2 of 2 pages."

6 Q. Do you know why that is scratched out?

7 A. No, I do not.

8 Q. Finally, I just note that attached is Exhibit
9 B as well. Does that appear on the original?

10 A. Yes.

11 Q. Is this the agreement that was eventually
12 entered into after all these negotiations we have been
13 talking about between Reilly and Bolander covering the
14 demolition of the Reilly property?

15 A. These various notations on here -- establish
16 that this is the document that we performed in
17 accordance with. We would make these notations on the
18 original document that we were working with.

19 Q. Do you recall when you signed this document?

20 A. No, I do not.

21 Q. The date on Page 1 states, "This agreement
22 made this 13th date day of April." Do you have any
23 reason to think you signed it earlier or later than
24 that?

25 A. I would -- ordinarily the document would come

1 to us for signature and be forwarded to the owner and
2 that 13th date is not my handwriting, I don't know
3 whose handwriting it is, but it would not necessarily
4 correspond with the date that I signed it.

5 Q. This agreement, does it represent the
6 culmination of your negotiations with Reilly?

7 A. Yes, no reason to believe otherwise. I have
8 no reason to believe that it does. No reason to
9 believe otherwise.

10 Q. Did you tell me before you did not believe
11 that you drew this up or you think that Reilly actually
12 drafted this?

13 A. I think this was drafted by Reilly, but then
14 I think that -- I did not draft it and I do not recall
15 that we had an attorney draft it or that anyone else in
16 our -- if it was drafted in our office I would have
17 drafted it for demolition and I did not draft this
18 document.

19 Q. Let me ask you a few questions about it and
20 the terms in it. First off, referring down to the
21 first sentence below the indented paragraph that talks
22 about Lots 25 to 48, the partial sentence that begins,
23 "And that the owner desires to have a substantial
24 portion of the premises cleared." What do they mean by
25 "substantial portion"?

1 A. There were some -- there was some of this
2 area, as I recall, that was essentially cleared, that
3 had simply been used for storage of railroad ties,
4 poles and one thing or another brought in for treating.
5 When we got the site necessarily all that product --
6 all those finished products had been shipped out, so
7 those areas would be clear. The section back over on
8 the right, as you drove in, had no buildings or debris
9 on it so there would be cleared items so we wouldn't be
10 doing any work on the property.

11 Q. Referring down to Paragraph 1A, "Definitions,"
12 do you know who came up with those definitions?

13 A. I would not have. That's not my composition,
14 so whoever prepared the contract I would expect.

15 Q. Would those have been points discussed with
16 you prior to the signing of this in general, if you
17 don't remember in specific?

18 A. In general, yes, we discussed what -- we are
19 defining what we are going to leave on the site and by
20 way of small masonry you define it, where you are going
21 to put it, and if you aren't sure of your understanding --
22 mutual understandings as to what constitutes grades you
23 make a definition of it.

24 Q. Let me refer you to 1A Roman small "i", I
25 guess, starting, "Small Masonry shall mean brick, stone,

1 concrete and nonorganic materials, 1 1/2 cubic feet or
2 less in content and not more than 24 inches in any
3 dimension and shall not be capable of compression at
4 less than 1,500 pound per square foot that may easily
5 be ascertained as to density by astute judgment of both
6 the demolition contractor and the City of Saint Louis
7 Park's engineering personnel." Do you know how that
8 term came to be included, that is, the judgement of
9 both the -- the astute judgement of both the contractor
10 and the City of Saint Louis Park?

11 A. No. I do not. I think to say one cubic foot
12 content and how the rest of this got put in here I
13 don't know.

14 Q. Do you know whether Saint Louis Park
15 suggested that their City personnel be involved in the
16 judgement here?

17 A. No, I have no recollection of discussing that
18 condition.

19 Q. Refer down to "Work to be Done." " The Contract
20 shall provide for demolition, removal and clean-up work
21 on the property as follows: 1. Demolish all buildings,
22 et cetera." Can you tell me how demolition was
23 contemplated? How were you going to demolish the
24 building?

25 A. With heavy equipment. You take a crane and

1 frontend loader and we are going to break them up into
2 little pieces, what sizes we can remove them through
3 disposal areas or bury the suitable debris on the site.

4 Q. Do you recall seeing the actual demolition of
5 any buildings on the site itself?

6 A. No, at the moment I do not. I do not recall
7 watching any buildings being demolished, any structural --
8 heavy equipment demolition going on while I was on the
9 site. There was some cutting of tanks. If you are
10 excluding that from your question, I do not recall
11 seeing physical destruction of buildings with cranes or
12 loaders or this type of thing at the moment.

13 Q. Did you inspect any building sites after they
14 were demolished? Again, if you recall.

15 A. I have a recollection of walking around where
16 the office had been, it was on a nice little knoll, it
17 was a nice landscaped area, trees, how the fellows had
18 left it. I have some recollection of walking around
19 where the treatment plant was, the heavy construction
20 over there that was on pilings, to how we had removed
21 it and how we were cleaning up some of the general area
22 where the trackage was and this type of thing, what
23 some of the tank areas looked like when we were through.
24 I have some vague recollections of that, but I am sure
25 I did. This is my duty or my obligation.

1 Q. In what respect is it or was it your personal
2 obligation to do these things? Would this be something
3 you were doing for the company to pass on their
4 demolition work?

5 A. Yes. I made the agreement. I had to see
6 that it's carried out, that I could verify that it's
7 carried out, that I know that it's carried out
8 according to the intent with which we entered into the
9 agreement.

10 Q. Let's refer to Paragraph B 2 on Page 2 of
11 Reilly 143, "Remove above and below grade tanks and
12 demolish supporting legs to grade or below grade." Do
13 you recall what was meant by "remove" here with
14 reference to tanks?

15 A. I would expect that this referred to the
16 steel tanks. We were to remove them, cut them up and
17 remove them, get them off the site.

18 Q. Do you recall watching the demolition of any
19 of these? I think you mentioned some cutting up?

20 A. I just got through saying I watched the
21 cutting up of these tanks and this was a high hazard
22 part of the job, and I am certain I watched it very
23 closely at first to see that we established safe
24 procedures and I could foresee hazards on the basis of
25 my experience better than others that could develop in

1 this situation, and prevention of situations where we
2 would generate explosive gases or fires that could get
3 out of control or harm could come to our work people.
4 I am certain that I observed that very closely
5 initially until we got our procedures set up; but,
6 again, this would be my obligation.

7 Q. Sure. Referring down to Number 5, "Break
8 open tunnels, pits, basements and cellars to the extent
9 that they are known to the Owner and remove the below
10 grade piping or machinery exposed to the work." How
11 was it ensured that that was going to occur? Was
12 someone going to walk around and point out or you would
13 know where they were?

14 A. The owner would have told us to the best of
15 their knowledge where there are tunnels and pits and
16 which ones contain piping and which ones do not. They
17 would have to point them out to us.

18 Q. Do you know if that happened and who did it?

19 A. Well, it's in the contract document and we
20 are paid for doing it so I guess we must have done it.

21 Q. I guess what I am asking is do you know who
22 or by whom the owner pointed these things out to you?
23 If you don't know --

24 A. No, at the moment I don't know

25 (At this time a discussion was held off the

1 record.)

2 MR. HIRD: Mr. Longman, do you recall in
3 all the negotiations you have had with Reilly about
4 demolition work to be done at the site any discussion
5 of any work to be done in connection with wells on the
6 site?

7 THE WITNESS: Any demolition of wells?

8 MR. HIRD: Demolition or other
9 excavation work?

10 THE WITNESS: Any work to be done in
11 connection with wells?

12 MR. HIRD: Yes.

13 THE WITNESS: If I understand your
14 question correctly the answer is no. Which way did you
15 ask it now?

16 MR. HIRD: I am sorry. Were you a
17 little confused?

18 THE WITNESS: I just gave you a flat no.
19 I wanted to be sure which way I am answering.

20 MR. HIRD: Tell me how you understood
21 your answer.

22 THE WITNESS: You asked me if we did any
23 work in connection with demolition of wells on this
24 site.

25 MR. HIRD: Demolition or any other

1 excavation that you did in connection with wells.

2 THE WITNESS: No.

3 MR. HIRD: Do you recall any discussion
4 at all about excavation or demolition work to be done
5 on wells at the site?

6 THE WITNESS: I do not recall any
7 discussion of wells on the site, but there is a little
8 hand note here in the file, my records, that says "leave
9 wells." Therefore, my answer to you is that I must
10 have had discussion or I could not have made that
11 notation, but I do not recall the discussion.

12 MR. McDONALD: Maybe to clarify the
13 record then, you could turn -- I think that's already
14 been introduced as an exhibit and maybe we could find
15 the exhibit. I think I could find it pretty quickly.

16 MR. WAHOSKE: It's 135.

17 (At this time a discussion was held off the
18 record.)

19 MR. McDONALD: Back on the record. I
20 asked Ben Longman to find the Deposition Exhibit which
21 he referred to a moment ago and referred to a
22 handwritten note. Have you found that Deposition
23 Exhibit, Mr. Longman?

24 THE WITNESS: Yes, I have.

25 MR. McDONALD: What Deposition Exhibit

1 is that?

2 THE WITNESS: Number 135.

3 MR. HIRD: Let me just ask you one
4 further question in the way of clarification. If you
5 were to leave the wells alone, would that require any
6 work or any activity on the part of Bolander or would
7 you simply just not go near the wells in the course of
8 excavation.

9 THE WITNESS: We would just not touch
10 the wells. We would not have anything to do with the
11 wells.

12 MR. HIRD: So you would not add any
13 figure into your estimate in connection with work on
14 the wells?

15 THE WITNESS: No.

16 MR. HIRD: Thank you.

17 BY MR. WAHOSKE:

18 Q. Let's refer again now, Mr. Longman, to Reilly
19 Exhibit 143, Page 2, Paragraph 6. I believe that's the
20 one on the right. Page 2, Paragraph B 6. "Fill
21 basements, cellars, pits, tunnels and low areas with
22 small masonry and earth materials from the site." Do
23 you know what sort of materials and where from the site
24 it was contemplated they would be taken?

25 A. These masonry materials would be coming from

1 the masonry buildings and foundations that we were to
2 remove and break up.

3 Q. But earth materials from the site, do you
4 recall about that?

5 A. There were some areas, I don't recall
6 specifically, small areas that were a little higher
7 than other areas. There is an item having to do with
8 grade back in here and we would be shifting, as I would
9 expect, some earth materials, some higher areas to
10 lower areas and generally leveling the site.

11 Q. Do you know who would pick which earth
12 materials would be picked and moved?

13 A. Our foreman and our operators would move that
14 material around and select it.

15 Q. That wouldn't be something that you would be
16 involved with on the site?

17 A. No.

18 Q. Number 7, "Dispose off the site the
19 demolition materials and debris not suitable for fill
20 outside of Saint Louis Park." Do you know who would
21 make the determination as to whether the debris was
22 suitable for fill?

23 A. Our foreman.

24 Q. Again, not yourself?

25 A. Not myself.

1 Q. In terms of disposing of this off the site
2 and outside of Saint Louis Park, do you know whose term
3 it was to dispose of it outside of Saint Louis Park as
4 opposed to merely off the site?

5 A. In all my discussions, Reilly Tar & Chemical
6 was always told that material was to be disposed of
7 outside of Saint Louis Park.

8 Q. Do you know why?

9 A. It had an odor.

10 Q. Is that a reason that they told you as best
11 you remember?

12 A. Well, you knew it when you would go there,
13 drive by there or be downwind.

14 Q. But is that a reason that was given to you by
15 the Reilly people for disposing of it outside of Saint
16 Louis Park and writing that term into the contract, if
17 you recall?

18 A. I cannot recall that that was specifically
19 given to me. It was always understood that that is the
20 reason. This was the initial factor in the shutting
21 down of the plant. It became a residential area and
22 the odor was just not acceptable.

23 Q. Who did the parties contemplate, the parties
24 being Bolander and Reilly, who did the parties
25 contemplate would choose the disposal site off the site

1 and outside of Saint Louis Park?

2 A. The wrecking contractor would choose that
3 site.

4 Q. Were you involved in choosing that site for
5 individual materials?

6 A. For the materials that were to be removed
7 from the site I chose the disposal area.

8 Q. In general?

9 A. Yes.

10 Q. And that is at least in general the South
11 Saint Paul Concord dump that you have referred to?

12 A. Yes.

13 Q. I think we talked about this a little before,
14 but now that we have the actual contract in front of us,
15 do you know if all of the materials that were disposed
16 of off the site and outside of Saint Louis Park were in
17 fact disposed of in that dump?

18 A. I do not know that all of the materials were.

19 Q. To the extent that they weren't, would you
20 have been involved in that decision, as to where to
21 dispose of them?

22 A. No, I don't believe so. The residues that
23 did not go there, for the most part, in my recollection
24 have gone to some other construction site, and I would
25 not have had anything to do with those sites. We would

1 just have the material that is needed here or there.

2 There has been some mention that some of this
3 went to the disposal site at Anoka. I don't know why
4 that would have been, unless Anoka wanted it -- unless
5 Anoka wanted it for that site. I don't know, but my
6 site for this material was the Concord dump. We have
7 lots of other material coming all at the same time,
8 continuous activity, we can purchase it, we get rid of
9 the odor, we get rid of the material, it's down there,
10 it's no problem to anyone. The odor is right in the
11 ground.

12 Q. Do you recall them needing any permits or
13 permission of any sort from any officials to dispose of
14 these materials in the manner you have just indicated?

15 MR. McDONALD: I guess I will object to
16 that question on the grounds of relevancy. I don't see
17 why it's relevant to this litigation, what permits may
18 or may not have been required by either the Concord
19 dump in South Saint Paul or another possible dump
20 located somewhere north of the Twin Cities.

21 MR. WAHOSKE: The contract provides at
22 some point, and I cannot find it right offhand, that
23 the contractor will obtain all necessary permits,
24 Paragraph 6 on Page 3. So I was inquiring of one of
25 the draftsmen or negotiating participants whether or

1 not a permit was required to dispose of the material in
2 the manner contemplated to be disposed of by the
3 contractor.

4 MR. McDONALD: I don't object to that
5 question. I think it's been asked and answered and I
6 will allow it to be answered again. I will object to
7 the other question.

8 BY MR. WAHOSKE:

9 Q. Did you have to get any permits to dispose of
10 this material or to haul or dispose of this material in
11 the Concord dump site?

12 A. No.

13 Q. Do you recall discussing disposal of this
14 material off the site and outside of Saint Louis Park
15 with anyone other than Reilly people?

16 A. No, not at the moment.

17 Q. Is it possible you discussed it with Saint
18 Louis Park personnel?

19 A. Well, it's possible but you are asking me if
20 I recall and I suppose -- I don't know, I don't recall
21 these conversations.

22 Q. Maybe I can shorten this a little by saying
23 in general in the rest of this contract, when it refers
24 to disposal at an off site location outside of Saint
25 Louis Park, or words to that effect, in your

1 contemplation at the time that you entered into this
2 contract that referred to the Concord dump site?

3 A. Yes.

4 Q. And that would have been a site chosen by the
5 contractor?

6 A. Yes.

7 Q. Bolander?

8 A. Yes.

9 Q. Were any records kept of these disposals,
10 what was disposed of where? Would they normally have
11 been?

12 MR. McDONALD: Again, I guess I will
13 object to that. I don't see that Mr. Longman has
14 testified that the disposal ever took place outside of
15 the City of Saint Louis Park pursuant to the contract
16 documents. So those records would be of disposal
17 outside of Saint Louis Park and I guess I don't see how
18 that's relevant to this particular litigation.

19 MR. WAHOSKE: Do you want an explanation?

20 MR. McDONALD: Yes, I guess I would,
21 otherwise I would instruct my witness not to answer.

22 MR. WAHOSKE: We have had a variety of
23 testimony this morning and may have further as to how
24 much material was hauled where. It may be of some
25 relevance as to how much material was hauled where. If

1 there were some physical records to back up
2 recollections it would be helpful to all parties.

3 MR. McDONALD: I guess I wouldn't object
4 to a question that asked whether or not any records had
5 been kept of the quantity of materials hauled off the
6 site if Mr. Longman can answer that question.

7 MR. WAHOSKE: I frankly don't understand
8 why you would object to my question as to if there is a
9 record of where materials were disposed of besides this
10 contract.

11 MR. McDONALD: If your question is where
12 things were disposed of.

13 MR. WAHOSKE: My question is whether
14 there is a record of that that Mr. Longman recalls,
15 whether they would have made a contemporaneous or other
16 record or what.

17 MR. McDONALD: Let me consult my client.
18 Off the record.

19 (At this time a discussion was held off the
20 record.)

21 MR. McDONALD: I will withdraw my
22 objection.

23 MR. WAHOSKE: Thanks, Dave.

24 BY MR. WAHOSKE:

25 Q. Do you know of any records that were kept at

1 the time of the disposal?

2 A. Are you talking about then or now?

3 Q. Either. Start with then in connection with
4 this particular project. Would you have kept records
5 of where this material was disposed of?

6 A. The truck drivers would pick up loads, they
7 would put it on a time card, how many loads they hauled
8 in a day.

9 Q. Who would have those records?

10 A. They don't exist anymore.

11 Q. How do you know that, that they don't exist
12 anymore?

13 A. We moved. We changed offices, everything
14 from '75 back practically has disappeared. We moved
15 from Minneapolis to Saint Paul, a whole new office setup.
16 We process our truck driver time cards, check out the
17 time on them and that's it, we are through with them.

18 Q. So these records, if they existed, would have
19 been destroyed in '75 -- I am sorry, recently?

20 A. Recently, the fall of last year before we
21 moved.

22 Q. And they would have been from '75 back?

23 A. Probably, as far as the cards are concerned.
24 I don't know if we have anything left beyond a month or
25 so.

1 Q. Let's refer to Paragraph 10, second sentence,
2 "Site finishing shall be accomplished in a workmanlike
3 manner to rough grade conditions." Can you tell me
4 what that meant or means?

5 A. That means the skilled operator is going to
6 generally level the site with the appropriate machine.

7 Q. And "rough grade conditions" means --

8 A. Rough grade conditions, near finish
9 conditions. It's a rough grade condition.

10 Q. Let's refer to Page 3, Paragraph 4, "This
11 contract for demolition, removal and clean-up work on
12 the property of the Owner shall not be applicable to
13 that part of the described property lying Easterly of
14 the Easterly right-of-way line of the proposed
15 Louisiana Avenue extension, which right-of-way line is
16 shown in red on Exhibit A hereto." I don't know if
17 your exhibit has it in red, but if you can refer to it
18 in Exhibit A here too that would be, I believe, Mr.
19 Longman, attached to the back of this document. If you
20 look there on Exhibit A I think you can see a solid
21 line paralleled on either side by dotted lines. Is
22 that the right-of-way for the proposed Louisiana
23 extension from what you can tell? Let's see if it
24 looks like there is a red line on the original?

25 A. What are you referring to here again?

1 Q. Number 4 on Page 3.

2 A. Will not be applicable to it. What was your
3 question again?

4 Q. I was asking first off if that red line
5 that's marked on yours is the easterly most -- the
6 right-hand most of the two broken lines?

7 A. Yes.

8 Q. That are indicated?

9 A. Yes.

10 Q. Can you tell me why this contract for
11 demolition was not to apply to that part of the
12 property?

13 A. No, I cannot.

14 Q. Let's refer to Paragraph 5, Page 3, the same
15 document, "The Owner will identified all wells on the
16 premises and desires that they be left intact." Do you
17 know why that was inserted?

18 A. No, I do not.

19 Q. Do you know, did the owner identify all wells
20 on the premises, to your knowledge?

21 A. They are marked on the plan sheet that was
22 given to us.

23 Q. That would be Reilly Exhibit 115?

24 A. Yes.

25 Q. Is that the only way that the owner

1 identified the wells, as best you recall?

2 A. That is the only way they were identified to
3 me.

4 Q. Do you know if they identify them in any
5 other way to you people on the site?

6 A. The foreman knew where the wells were.

7 Q. How did he know, do you know?

8 A. He was shown the wells, he told me, by Reilly --
9 people from Reilly Tar & Chemical.

10 Q. This was during the process of the work?

11 A. Of the work.

12 Q. Do you recall being along when any wells were
13 pointed out?

14 A. No.

15 Q. The next sentence there in the paragraph, "The
16 contractor agrees not to damage or interfere with said
17 wells and agrees to leave them intact." Mr. Hird has
18 already asked you some questions I guess in that regard.
19 I take it that from your answers to that that meant to
20 you you were to do nothing with the wells at all?

21 A. That is correct.

22 Q. Going on, "The contractor agrees to leave the
23 water main intact and in an operable condition." Do
24 you recall whether the owner was to indicate where the
25 water main was? Was it on the map?

1 A. I have some recollection that we discussed
2 that water main. I believe it is indicated on the time
3 sheet but without research I couldn't answer that
4 question.

5 Q. Referring to Paragraph 7, "The tanks,
6 containers and piping are to be emptied of product by
7 the Owner, however, all residues remaining in the tanks
8 shall be disposed by the Contractor as provided in
9 Paragraph 1 B 8 herein." I take it the disposal of the
10 material was to be taken care of, as we discussed
11 before about all other disposals, off the site?

12 A. Yes.

13 Q. To your knowledge did the owners empty the
14 tanks, containers and piping of product?

15 A. To the best of my knowledge the product was
16 all removed.

17 Q. Paragraph 9, "All salvageable materials and
18 fixtures located at the referenced site shall be the
19 Contractor's property as released by the Owner or not
20 necessary for production except as to those items
21 listed on Exhibit B attached hereto." Could we refer
22 to Exhibit B attached to the end of Reilly Exhibit 143?
23 Do you know who drew up this list?

24 A. I cannot say that I know.

25 Q. Would it have been Reilly people?

1 A. Well, I would just have to think it's Reilly
2 people. I don't think anybody else. It's a Reilly
3 contract, the contract document existing between Reilly
4 and Bolander and it's not our list.

5 Q. Do you know whether these items were in fact
6 removed?

7 MS. MARTIN: Michael.

8 MR. WAHOSKE: First of all, does he know
9 whether they were removed from the premises at all by
10 anyone.

11 MR. McDONALD: Do you want him to go
12 through every item on that list?

13 A. I can't say that every item here was removed.
14 These items are frequently made up by owners. These
15 lists are frequently made up by owners. Sometimes they
16 will remove 100 percent, sometimes 30 or 40 percent.
17 It just gives them a claim on them, but I cannot tell
18 you because I wasn't out there when the work was being
19 done. I can't tell you whether these items were
20 removed or not.

21 Q. Let's ask one specific one perhaps. Number 9
22 it resites, "One pressure tank 6 by 16 with valves and
23 gauges located in Buildings 5 through 9. One 10,000
24 gallon tank," and then on the last line, "One well pump
25 located south of Buildings 5 through 9." Now, if I can

1 refer you to these exhibits we have here; first,
2 State's Exhibit 9 indicates the refinery and an item --
3 a marking called "Republic deep well." If you refer to
4 Reilly Exhibit 1 it indicates the refinery, I believe
5 it is labeled as Buildings 5 through 9, and just south
6 of the refinery it's labeled "deep well drilled for
7 Republic Creosote in 1917." If you refer to Reilly 115,
8 I believe that -- where is the refinery? The refinery
9 is located in Buildings 5 through 9 here and I think
10 there is an indication of a well being located to the
11 south of that. That's just for reference. Do you know
12 whether or not the well pump that's referred to there
13 was removed by the owner?

14 A. No, I do not.

15 Q. Were you aware of the existence of the well
16 that was there yourself?

17 A. I only knew from the plan she furnished us
18 generally where the wells were. I have never seen them.

19 Q. Referring back to Reilly 143, that's that
20 document, Page 4, Paragraph 2. "The parties agree and
21 understand that the premises have been sold by the
22 owner to the City of Saint Louis Park and that the sale
23 agreement with the City of Saint Louis Park provides
24 that the work described in Paragraph 1 hereof shall be
25 performed by the Owner and that the Owner is entering

1 into this Contract with the Contractor for the purpose
2 of performing this obligation to the City of Saint
3 Louis Park in connection with the agreement for the
4 sale of said real estate." Prior to the negotiation
5 and settlement, I should say signing of this contract
6 between Bolander and Reilly, did you ever see the sale
7 agreement referred to in Paragraph 12?

8 A. No, I did not.

9 Q. Were you made aware of that agreement in some
10 other way than seeing it?

11 A. There was discussion about a sale, a change
12 of ownership of the property.

13 Q. Did, to the best of your recollection, Saint
14 Louis Park in any way participate in putting together
15 this Paragraph 12 of this particular document?

16 A. I have no knowledge of it.
17
18

19 (At this time a recess was taken and the
20 deposition reconvened on the 3rd day of May 1983
21 commencing at 9:00 a.m.)
22
23
24
25

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MINNESOTA

3 FOURTH DIVISION

4 -----
5 United States of America,

6 Plaintiff,

7 and

8 State of Minnesota, by its
9 Attorney General Warren Spannaus,10 its Department of Health, and
11 its Pollution Control Agency,12 Plaintiff-Intervenor,
13 vs.14 Reilly Tar & Chemical Corporation;
15 Housing and Redevelopment authorityCivil No.
4-80-46916 of Saint Louis Park; Oak Park
17 Village Associates; Rustic Oaks18 Condominium Incorporated; and
19 Philip's Investment Company,

20 Defendants.

21 and

22 City of Saint Louis Park,

23 Plaintiff-Intervenor,
24 vs.25 Reilly Tar and Chemical Corporation,
Defendant.

and

City of Hopkins,

Plaintiff-Intervenor,
vs.Reilly Tar & Chemical Corporation,
Defendant.-----
VOLUME II

The Deposition of BENJAMNE LONGMAN, taken pursuant to Notice of Taking Deposition, taken before Kirby A. Kennedy, a Notary Public in and for the County of Hennepin, State of Minnesota, taken on the 3rd day of May 1983, at 1900 First Bank Place East Minneapolis, Minnesota, commencing at approximately 9:20 o'clock a.m.

APPEARANCES

DENNIS M. COYNE, ESQUIRE, and STEPHEN SHAKMAN, ESQUIRE, Special Assistant Attorneys General, 1935 West County Road B2, Roseville, Minnesota 55113, appeared for and on behalf of Plaintiff-Intervenor, State of Minnesota.

KATHLEEN MARTIN, ESQUIRE, of the law firm of POPHAM, HAIK, SCHNOBRICH, KAUFMAN and DOTY, LIMITED, 4344 IDS Center, Minneapolis, Minnesota 55402, appeared for and on behalf of Plaintiff-Intervenor, City of Saint Louis Park.

MICHAEL J. WAHOSKE, ESQUIRE, of the law firm of DORSEY and WHITNEY, 2200 First Bank Place, Minneapolis, Minnesota 55402, appeared for and on behalf of Defendant Reilly Tar and Chemical Corporation.

THOMAS E. REIERSGORD, ESQUIRE, of the firm of YNGVE & REIERSGORD, Attorneys at Law, 6250 Wayzata Boulevard, Minneapolis, Minnesota 55416, appeared for and on behalf of Defendant, Reilly Tar and Chemical Corporation.

JOSEPH C. VESELY, ESQUIRE, of the firm of VESELY, OTTO, MILLER & KEEFE, Attorneys at Law, Suite 203, Northwestern Bank Building, Hopkins, Minnesota 55343, appeared for and on behalf of Plaintiff-Intervenor, City of Hopkins.

ROBERT E. LEININGER, ESQUIRE, Enforcement Attorney, 230 South Dearborn Street, Chicago, Illinois 60604, appeared for and on behalf of the United States Environmental Protection Agency, Region V, Plaintiff, United States of America.

DAVID HIRD, ESQUIRE, Trial Attorney, Department of Justice, 10th Street and Penn Avenue, Washington, D.C. 20530, appeared for and on behalf of the United States of America.

DAVID C. McDONALD, ESQUIRE, of the firm of BRIGGS & MORGAN, Attorneys at Law, 2200 First National Bank Building, Saint Paul, Minnesota 55101, appeared for and on behalf of Carl Bolander & Sons.

1 CONTINUED CROSS-EXAMINATION

2 BY MR. WANOSKE:

3 Q. Mr. Longman, I will remind you that you are
4 still under oath from yesterday.

5 A. All right.

6 Q. As I recall, we were in the process of
7 reviewing Reilly Tar Exhibit Number 143, if you could
8 find that again, sir. That is the Agreement for
9 Clearing Land dated April 13, 1972, between Reilly Tar
10 and Carl Bolander & Sons. I think we were using this
11 one, 143. That, as I recall, was another draft that
12 only had your signature on it?

13 A. I believe so, something to that effect.

14 Q. If we could turn to Page 3 and Paragraph 4 of
15 Page 3. I think yesterday when we were closing we
16 referred to Exhibit A, which is also attached, which
17 appears to be a general map of the area on which the
18 Louisiana Avenue proposed extension is indicated and on
19 the original of which there is a red line on the
20 right-hand most right-of-way boundary which is referred
21 to in Paragraph 4 on Page 3 as demarking that part of
22 the property of the owner to which this agreement we
23 are talking about is not applicable. I am wondering,
24 Mr. Longman, if you can tell me whether Bolander ever
25 did work on the other side of that, that is, east of

1 that line on the map in connection with this project?

2 A. The street goes west. East would be --

3 Q. Excuse me. It might also help you to refer
4 to Reilly Tar 115, the map, a copy of which was
5 provided yesterday by Bolander. I am not sure of the
6 line demarking the proposed extension as it applies to
7 this map, but it does appear that there is a red line
8 of some sort drawn in on the original and to the east
9 of that line are various buildings labeled pole barn,
10 Wheeler office and warehouse. Is that as you read it?

11 A. Yes.

12 Q. Do you recall whether at some point in
13 performing this agreement or in addition to this
14 agreement Bolander moved in and did something with
15 those buildings?

16 A. We discussed the removal of those buildings
17 and I walked over there and I believe I gave somebody a
18 price. Wheeler Lumber was operating in that area in
19 those buildings at the time. I recall this pole barn.
20 I recall being in the office. We did discuss
21 demolition, but I am of the belief it was not -- belief
22 it was not included in this project and whether we did
23 that later or whether it was done for someone else,
24 again I do not know. I do not believe that it was
25 included in this contract.

1 Q. The original project at least?

2 A. That's correct, I do not believe it was
3 included.

4 Q. The reason I brought it up, in addition to
5 finding out perhaps how that came about in the contract
6 was that I believe yesterday Bill Bauer testified that
7 at some point in the project they did in fact go over
8 there and I don't remember if they leveled all the
9 buildings, but at least some of them, and again I seem
10 to recall him saying that it was probably either at
11 yours or Ken Moe's direction that he had the Bolander
12 people go over and do that.

13 A. Kenny Moe will be here to testify, and he
14 would have a better recollection, I believe, than I.

15 Q. We will ask him.

16 A. Yes.

17 Q. Thank you. We could probably get this out of
18 the way.

19 A. He will need this to look at, I am certain,
20 to refresh his memory.

21 Q. I think we will hold onto it until then. If
22 we could turn to that same exhibit now, Reilly Tar 143,
23 and Exhibit B thereto, I believe that's the last page
24 of that exhibit.

25 A. Yes.

1 Q. Referring you now again down to Number 9, and
2 the last phrase of Paragraph 9, "One well pump located
3 south of Buildings 5 through 9." The top of the
4 exhibit states, "The following is a list of property of
5 and equipment to which the owner retains ownership and
6 will remove from the premises." Can you help me to
7 remember that you did not know for sure whether or not
8 Reilly Tar took that pump?

9 A. Your statement is correct, I do not know
10 whether or not they took that pump. I do not even
11 recall there having been a pump on top of the well. I
12 recall asking somebody a week or two ago whether the
13 wells were capped or whether there was a pump on one or
14 two. I do not recall ever having seen the wells and do
15 not recall that particular wordage down here. It would
16 indicate that the pump was on top of that well casing.

17 Q. Is it possible that it was released by Reilly
18 to Bolander, that or any of the other items I guess on
19 that Exhibit B?

20 A. That the well pump was released to Bolander?

21 Q. Yes, or any of the other equipment and
22 fixtures that are listed on Exhibit B.

23 A. Well, I believe it's quite possible.

24 Q. Does that happen sometimes?

25 A. That happens, is what I was going to add. An

1 owner will give you a list of what he is definitely
2 going to keep and what he might keep and when he has
3 taken what he wants, the rest of it is your salvage or
4 your obligation to get rid of. In a wrecking operation
5 it's generally understood that all materials that come
6 into existence or that are involved are the
7 contractor's property to be disposed of, the debris is
8 technically the contractor's property or anything else
9 that's there is technically contractor's property.
10 This is for the purpose of making him liable for the
11 disposal.

12 Q. I guess we should ask about this site
13 specifically first. Do you know whether records were
14 kept of the material salvaged by Bolander, either in
15 terms of equipment or otherwise? Do you have any
16 recollection of that?

17 A. We would have invoices, I expect, materials
18 that -- salvaged materials that we sold to scrap yards
19 or to some buyers for reuse; that is, we would have
20 invoiced a lump sum, maybe a specific item, maybe two
21 railroad cars of iron or something of this kind, we
22 would have had those at the time we would have invoiced
23 them. Whether or not we still have those, I don't know,
24 but it's not likely there would be specific mention of
25 equipment, a specific piece of equipment on an invoice,

1 it would be salvaged or sold to a salvage company.

2 Q. And it's apparently entirely possible and
3 maybe even likely that those invoices, if they existed,
4 don't exist anymore?

5 A. I would say it's quite likely. I don't keep
6 the records. It's quite likely they do not exist.

7 Q. You mentioned that a couple of weeks ago you
8 were talking with someone about the wells out there.
9 Do you recall who that was.

10 MR. McDONALD: Probably me.

11 A. Yes, I think that's how it came up in some
12 discussion you initiated.

13 Q. You mean your attorney Mr. McDonald?

14 A. Yes, Mr. McDonald, and I have a recollection
15 of asking Bill Bauer whether or not he remembered
16 whether or not there was a pump or pumps on top of
17 those well casings or whether those well casings were
18 kept. That was the extent of my inquiry.

19 Q. Do you remember what he said?

20 MR. McDONALD: I am going to object to
21 that as being hearsay. You can answer it if you can.

22 A. What was your question again?

23 Q. Do you remember what Bill said in terms of
24 whether or not he remembered there being pumps or caps
25 on the casings?

1 A. My answer is -- my recollection is that he
2 did not remember.

3 Q. Have you talked to anyone else about the
4 pumps or the wells, I should say?

5 A. No.

6 Q. I am going to refer you now, Mr. Longman, to
7 something we had marked as an exhibit yesterday, it was
8 near the top of the file, in fact there it is, Reilly
9 Exhibit 118. That we shown to Bill Bauer and I asked
10 him if could help us identify it. It is labeled, "Removal
11 of Machinery and Equipment from Saint Louis Park. The
12 company plans to arrange for the disposal of
13 specialized equipment as noted below," and 13 items are
14 listed. I think that generally parallels and perhaps
15 exactly parallels the list of items on Exhibit B. I am
16 wondering if you recognize, perhaps by comparing, the
17 original there in the stack of documents. I think Dave
18 has just found it, the handwriting on the right-hand
19 side.

20 A. I would -- that looks like my handwriting.

21 Q. Could you help me out? First off, to the
22 right of Number 2 there it says "Okay" and then
23 something else. Can you read that from the original?

24 A. It appears to be, "Controls for machines." I
25 am of the belief that that handwriting refers to

1 electrical control panels. Those were the controls for
2 those specific machines.

3 Q. Do you know what the "Okays" signified? It's
4 a little hard to pull this out of thin air, I realize
5 that.

6 A. I would have to just guess that I approved --
7 did all of these items and approved them. They were
8 there and they were removed by the owner or something
9 to that effect.

10 Q. You don't know or do you know, I should say?
11 I should ask it that way first, when you would have had
12 this document and when you would have made those "Okays"
13 on there?

14 A. No.

15 Q. It might have been before the project began
16 or it might have been after?

17 A. It could have been before, it could have been
18 after. It could have been we looked around and saw
19 that those items were there and possibly the owner
20 representative and I went around together and maybe
21 found that they were there and agreed that the owner
22 had removed them, or that maybe we stole them, that we
23 did not steel them, it may have been something of this
24 kind. I don't know.

25 Q. Well, we were just looking for help in

1 identification on that one.

2 A. Yes.

3 (At this time RTC Deposition Exhibit
4 144 was marked for identification by the
5 Court Reporter.)

6 BY MR. WAHOSKE:

7 Q. Mr. Longman, I am now going to give you what
8 has been marked as Reilly Exhibit 144 and ask you to
9 take a look at it. It is labeled, "Agreement for
10 Purchase of Real Estate," and it is signed on Page 6 by
11 Reilly Tax and I guess on Page 7 by the City of Saint
12 Louis Park. I am wondering if you have had occasion to
13 see this document before?

14 A. I do not recall seeing this agreement before.

15 Q. Let me direct your attention to Page 2,
16 Paragraph 5, labeled, "Demolition, Removal and Clean-up
17 Work." I might ask you to just take a glance at the
18 provisions of 5.

19 A. All right.

20 Q. Then I would refer you back to Reilly Tax
21 Exhibit 143, I think we just had that, Paragraph 12.
22 It appears to me that the provisions in general from
23 Reilly Tax 143, the contract between you and Reilly,
24 parallel the provisions and the contract between Reilly
25 and the City of Saint Louis Park in Paragraph 5 of that

1 agreement, Reilly 144.

2 MR. McDONALD: Excuse me, counsel. Did
3 you mention Paragraph 12 when you referred Mr. Longman
4 back to 143?

5 MR. WAHOSKE: Yes, I did.

6 BY MR. WAHOSKE:

7 Q. It appears to me that those two agreements
8 parallel each other in those particulars. Would you
9 generally agree with that?

10 A. Yes, sir.

11 Q. Do you recall whether or not you were shown
12 this document, that is, or saw it anyway, Reilly 144,
13 the agreement between Reilly and Saint Louis Park, in
14 the course of negotiating Reilly 143, the agreement
15 between you and Reilly?

16 A. I have no recollection of having seen this
17 document before. I have no idea of the price that was
18 involved on it, no recollection of that whatsoever, so
19 I could not have seen the document.

20 Q. Do you know whether you might have seen the
21 provisions of Paragraph 5?

22 A. No, I do not recall this document.

23 Q. Let me refer you down to Paragraph 10 of that
24 same document, that would be Reilly 144, "Equipment to
25 Remain on Premises. Seller agrees to identify all

1 wells and leave them intact. The Seller may, at its
2 option, remove the pumping equipment. The Seller
3 agrees to leave water main intact and in an operable
4 condition." We talked a little about this yesterday
5 and I guess today. Do you know whether or not the
6 seller removed the pumping equipment that's referred to
7 in Paragraph 10?

8 A. No, I do not know.

9 (At this time RTC Deposition Exhibit

10 145 was marked for identification by the
11 Court Reporter.)

12 BY MR. WAHOSKE:

13 Q. Next, Mr. Longman, I will hand you what has
14 been marked as Reilly 145 and ask if you can tell me
15 what that is? These are two documents, copies of two
16 documents, also produced to us yesterday by Bolander in
17 response to the subpoena duces tecum.

18 A. Certificate of insurance. This is a
19 certificate of insurance that was furnished Reilly Tax
20 & Chemical the 14th of April 1972, for insurance in the
21 amount of -- listing our various insurance items.

22 Q. Is there anything different about this policy
23 from the standard insurance you would give out in terms
24 of demolition jobs at that time?

25 A. Nothing that I perceive here.

1 Q. \$5,000,000 was, I think you said at the
2 beginning of yesterday, the standard amount that you
3 used at that time?

4 A. Yes, \$5,000,000 is referred to.

5 (At this time RTC Deposition Exhibit
6 146 was marked for identification by the
7 Court Reporter.)

8 BY MR. WAHOSKE:

9 Q. Mr. Longman, I will now give you what has
10 been marked as Reilly Exhibit 146 and ask you to read
11 it, please. It is labeled, "Inter-office
12 Correspondence, Reilly Tar & Chemical Corporation, to
13 T. J. Ryan from H. L. Finch, Subject: Plant Demolition,
14 date May 5, 1972." I will have some questions for you
15 after you have had a chance to read through it.

16 A. All right.

17 Q. Do you know who the site superintendent and
18 the foreman were that are referred to in Paragraph 11?

19 A. The site superintendent. The foreman would
20 have been Bill Bauer and there were three of us, I
21 would expect that was Kenny Moe, but I do not recall.

22 Q. You say you don't recall?

23 A. I don't recall. I do not recall the meeting,
24 no.

25 Q. Go down to Paragraph 3, "The understanding

1 was reached that Bolander could begin immediately the
2 destruction of (a) the refinery building (b) the tar
3 cistern (c) the tank farm in the refinery." Do you
4 recall whether that was the order of demolition that
5 was decided on?

6 A. No, I do not.

7 Q. Refer down to the next paragraph, "Yesterday,
8 May 2nd, the utilities were so disconnected and secured
9 to allow Bolander to begin his operations in the
10 destruction of the refinery. Bolander's crew first
11 stripped the refinery of the copper wire and removed
12 some of the valves that they thought might be worth
13 salvaging. In addition, they started to cut up the
14 steel bays in the refinery. The steel bays were
15 formerly used for cooling electrode binder pitch." Do
16 you remember any of that occurring?

17 A. No, this is work in process and nothing about
18 it stays in my mind.

19 Q. Do you have any reason to think that the
20 project did not begin in this way?

21 MR. McDONALD: I am going to object to
22 that. I think it calls for speculation. The witness
23 can answer if he can.

24 A. You have to repeat the question.

25 Q. I am sorry. I was just wondering if you had

1 any reason to think the project did not begin in the
2 way described in this inter-office memorandum?

3 A. I have no reason to question it. It sounds
4 reasonable and I cannot give you a yes or no answer.

5 Q. That's fine.

6 (At this time RTC Deposition Exhibit
7 147 was marked for identification by the
8 Court Reporter.)

9 BY MR. WAHOSKE:

10 Q. Mr. Longman, next I am handing you Exhibit
11 147 and ask you if you could identify that for me,
12 please?

13 A. This is an invoice from Carl Bolander & Sons
14 Company to Reilly Tar & Chemical and dated the 31st of
15 May of 1972, Estimate Number 1 in the amount of \$26,000,
16 to furnish equipment and labor to perform demolition
17 and related work.

18 Q. Would you know to what it refers in terms of
19 Estimate Number 1?

20 A. "Furnish equipment and labor to perform
21 demolition and related work on a contract agreement
22 dated 13th of April 1972."

23 Q. Do you know what that Estimate Number 1 would
24 refer to in particular?

25 A. We invoiced monthly. I believe the contract

1 document said that we would submit monthly invoices and
2 so at the end of May we would have submitted invoice
3 Estimate Number 1.

4 Q. Would you know how much and what was
5 completed by that time?

6 A. I would have given our bookkeeping department
7 that sum of money.

8 Q. As an amount that they should bill?

9 A. As an amount.

10 Q. What would that have been based on?

11 A. My estimate of the percentage of the contract
12 work that had been completed as of that date.

13 Q. And would that estimate have been based on an
14 inspection by you of how much had been demolished?

15 A. Yes.

16 Q. Do you recall now how much was demolished by
17 the time you submitted that estimate?

18 A. No. I have no visual picture in my mind of
19 what work had been done or what items could have made
20 up that \$26,000. We would have mobilization charges
21 involved in there, preparation charges, equipment
22 moving work, some items of this kind, over and above
23 the actual destruction of buildings. Mobilization for
24 a job of this kind of some of our jobs can get to be a
25 very high figure, just getting the equipment to the

1 site, maybe preparing special equipment, whatever was
2 involved in this mobilization concept.

3 (At this time RTC Deposition Exhibit
4 148 was marked for identification by the
5 Court Reporter.)

6 BY MR. WAHOSKE:

7 Q. Mr. Longman, I am now going to hand you what
8 has been marked as Reilly 148 and ask if you could read
9 the first three paragraphs. For the record, this is
10 labeled, "Inter-office Correspondence, Republic
11 Creosoting Company, to T. J. Ryan from H. L. Finch,
12 Subject: Saint Louis Park Plant Operations, date June
13 5, 1972."

14 A. I read the first three paragraphs of this
15 Exhibit 148.

16 Q. Thank you. Refer now to sentence Number 1.
17 It's not numbered, but the first sentence, "In the
18 demolition, Bolander is not making the apparent
19 progress that was made during his removal of the
20 refinery building." Do you recall any slow down in
21 progress or why that might have occurred around June or
22 late May?

23 A. No, I do not.

24 Q. The next sentence, "This week has been spent
25 on removing and cutting up two above ground storage

1 tanks along with removal of five underground storage
2 tanks through the refinery area. Some of the
3 underground storage tanks gave them quite a problem
4 because of their size and because they were full of
5 water and solids." Do you recall what the problems
6 were that were encountered?

7 A. No. What Mr. Finch would call a problem and
8 what we would consider a problem wouldn't necessarily
9 be the same thing.

10 Q. Do you recall the removing and cutting up of
11 above ground storage tanks?

12 A. Some of it, yes.

13 Q. Were you involved or did you watch the
14 cleaning out and hauling away of residue from any tanks?

15 A. I think I must have, but I do not recall
16 specifically. I recall being there when tanks were
17 opened up while we made sure of our procedures for
18 opening up these tanks, getting them cut up so we did
19 not create explosive or otherwise hazardous fumes. I
20 recall, while I am talking here, seeing some residue
21 along side of one very large tank.

22 Q. What sort of residue?

23 A. A black looking residue.

24 Q. Was this on the ground?

25 A. On the ground.

1 Q. Do you know about how much? I mean, was it
2 in the soil or above it?

3 A. Sitting on top of the ground along side the
4 tank.

5 Q. Might that have been --

6 A. A couple truck loads I would guess.

7 Q. Might that have been removed from the tank
8 there beforehand or would you have any idea?

9 MR. McDONALD: Again, I just object.
10 Calls for speculation. The witness can answer if he
11 can.

12 MR. WAHOSKE: David, it might call for
13 speculation. If he doesn't remember that's true.

14 MR. McDONALD: I feel a lot of your
15 questions are asking him to speculate about things that
16 he doesn't have any remembrance of and I guess I would
17 just like to note my objections for the record.

18 MR. WAHOSKE: Just for the record, it
19 seems to me I have to ask the questions to see if he
20 has a memory of them. I had to ask him whether it was
21 there after it was removed from the tank. We don't
22 know if it's speculation or not until he can answer.

23 MR. McDONALD: I haven't been objecting
24 and don't object to you testing his knowledge whether
25 he knew if the residue was removed from the tank. I

1 guess I do object when you start leading the witness
2 and asking him to speculate, could that have come from
3 the tank or could that have come from a certain
4 location. If you ask him whether he knew that came
5 from there or not that's fine. I guess I would object
6 to the form of to the question.

7 MR. WAHOSKE: I will try to remember
8 that in my phrasing.

9 BY MR. WAHOSKE:

10 Q. Do you know whether that came from the tank
11 or whether that was there before the tank was opened?

12 A. No.

13 Q. Do you recall any of the removal of residue
14 from the plant site? Do you recall either seeing it or
15 directing it?

16 A. I did not immediately direct it. The foreman
17 and immediate superintendent are running the job. I
18 have recollection of a truck or two leaving the site
19 that supposedly had residue on them, but these are very
20 vague. I have no specific recollections.

21 Q. Referring to that same paragraph, there is
22 mention there of the removal of five underground
23 storage tanks through the refinery area. Do you
24 remember the removal of any underground storage tanks?
25 I believe it's the first paragraph.

1 A. I do not recall which tanks.

2 Q. Let's refer down to the next paragraph, the
3 second sentence, "The first ground tank they removed a
4 week or so ago made me think they were going to have a
5 lot less trouble with the ground tanks than I
6 anticipated. This week, however, I would say that they
7 are running into more of the anticipated problems." Do
8 you know what trouble was incurred or run into in
9 removal of the ground tanks?

10 A. It must not have been discussed with me
11 because I do not recall any particular problem with
12 underground tanks or where it says ground tanks.

13 Q. Yes.

14 A. With the ground tanks.

15 Q. You don't recall?

16 A. Not running into -- it says, however, they
17 say they were running into more of the anticipated
18 problems. Well, if we anticipated it it really isn't a
19 problem, it's part of the work.

20 Q. I was just wondering if you recalled what
21 sort of anticipated problems or whatever there was in
22 terms of removing these tanks, the ground tanks. If
23 you don't recall, you don't recall.

24 A. I do not recall what is being referred to
25 here in this paragraph.

1 Q. Do you recall anything else about trouble or
2 problems in removing the ground tanks?

3 A. Well, there was the problem of getting the
4 tanks opened up and getting them ventilated so you do
5 not have a collection of explosive fumes,
6 concentrations of hazardous fumes. Once you have got
7 the tanks opened up so that there is ample air and you
8 can work at them, cutting them into chunks, then you
9 have a problem where there is -- where there would be
10 accumulations of residue because it's messy, gooey
11 handling, but I don't know that it should be called
12 problems. The procedures were messy and miserable
13 working.

14 Q. Do you recall what procedures were used to
15 remove the residue?

16 A. We had the use of steam for a while which
17 would heat, and I expect that was used. I am quite
18 sure it was for a little while. Other than that I do
19 not specifically recall. No, I do not specifically
20 recall.

21 Q. Do you remember how they would get the
22 residue out of the tanks? Would they do that before
23 they cut it up, for example, or afterward or in the
24 process?

25 A. Residues would be at the very bottom of the

1 tank, very low levels. You could get the tank cut down
2 to that level where you just had about a foot or
3 thereabouts of the tank left. You had the tank and the
4 sides cut up into pieces and set aside and then you
5 would have your residue laying there in the bottom of
6 the tank. I think for most of it small frontend
7 loaders called bobcats were used but I am guessing, I
8 really don't recall. You would do it with little
9 machines or hand work, shovels, this type of thing.

10 Q. The third paragraph in this same memo, Reilly
11 148, refers to a threatened strike involving the 49ers
12 or the operator's union. Do you recall whether there
13 was a strike of some or all of the Bolander work force
14 that summer during that project?

15 A. We had a strike at one time during that
16 period, but I don't know whether it took place at that
17 particular time or not. I have some reason to think it
18 did but my memory is -- I couldn't remember.

19 Q. Do you remember now that affected the Reilly
20 clean-up project?

21 MR. McDONALD: I guess I will object to
22 that because the witness testified he wasn't sure that
23 it even happened during that period.

24 MR. WAHOSKE: I think he is referring to
25 the week of June 5th.

1 MR. McDONALD: He can answer if he can.

2 BY MR. WAHOSKE:

3 Q. Do you recall that there was a strike that
4 summer?

5 A. No, I do not recall whether or not there was
6 a strike that summer.

7 Q. Thank you.

8 (At this time RTC Deposition Exhibit
9 149 was marked for identification by the
10 Court Reporter.)

11 BY MR. WAHOSKE:

12 Q. Mr. Longman, next I will give you what has
13 been marked as Reilly Exhibit 149 and ask if you could
14 read through it, please? For the record, it is labeled
15 at the top, "Departmental Correspondence, date August 4,
16 1972, Memo for file from Harvey J. McPhee, Subject:
17 Demolition Survey, Reilly Chemical and Tar." I believe
18 this to be a document produced to us by the City of
19 Saint Louis Park or a part thereof, Health Department,
20 et cetera?

21 A. All right.

22 Q. Let me refer you first to Paragraph 1. I
23 think we have talked about these people a little
24 yesterday. Do you know whether or not these are all
25 Saint Louis Park people referred to besides yourself,

1 that is McPhee, Brooks and Thybault?

2 A. I recognize the name McPhee as a Saint Louis
3 Park employee, I have dealt with him a number of times
4 over the years. Brooks and Thybault have been referred
5 to in the document.

6 Q. Do you recall whether any Reilly personnel
7 were also present at that meeting that's referred to in
8 this memo?

9 A. I do not remember this meeting.

10 Q. That's a fair answer.

11 MR. McDONALD: Mr. Longman is being his
12 own lawyer because that was going to be my objection.
13 That was very good. I was just going to object.
14 BY MR. WAHOSKE:

15 Q. Do you have any reason to believe this
16 meeting did not take place?

17 A. I do not question the document but I do not
18 recall the meeting.

19 Q. If you don't mind, if we might go through
20 some of the parts of it perhaps that will jog your
21 memory as we look through it. The second paragraph
22 refers to, "A complete review was made of all work and
23 the plans for completion." Do you recall at any point
24 reviewing all of the work and the plans for completion
25 with Saint Louis Park personnel during the course of

1 the project?

2 A. Not at any specific meeting. This person
3 McPhee, I have been over to the Saint Louis Park office,
4 I met him. In the process of arranging for permits I
5 would necessarily have had to discuss this project with
6 Saint Louis Park City officials. It was a project with
7 a high level of publicity associated with it in which
8 the City of Saint Louis Park was quite sensitive. I
9 necessarily would have been in consultation with them
10 at this time.

11 Q. During the course of the demolition?

12 A. Before and during.

13 Q. Okay.

14 A. But nothing that stands out in my mind.

15 Q. Let me refer then to the second sentence of
16 that same second paragraph of Reilly 149. "The tar pit,
17 the API separator and the retort building were given
18 special attention." Could you first tell us what those
19 three items are, the tar pit, the API separator and the
20 retort building? You can refer to any of those.

21 MR. McDONALD: That's if he knows.

22 MR. WAHOSKE: True.

23 A. What is referred to as the tar pit here, I
24 think that refers to an open concrete enclosure that
25 was in the area. It seems to me it stood about -- had

1 walls above grade about five or six feet and maybe a
2 foot or two below grade. It was made of concrete, 40 --
3 50 feet, you know, in each direction, maybe it was
4 oblong, 40 feet one way, 60 feet the other, 75 feet. I
5 don't know. It was just a large open tank.

6 Q. If I could refer you to State's Exhibit 9,
7 which we have here on the easel, there is an object
8 labeled the "tar cistern." Might that be what is
9 referred to as the tar pit?

10 A. That is what I am thinking of as the tar pit.

11 Q. Let's go to the next one, the API separator,
12 do you know what that refers to?

13 A. I do not recall at this time what the API
14 separator was.

15 Q. Might that also be the same thing referred to
16 as the settling basin which is marked here on State's
17 Exhibit Number 9?

18 MR. McDONALD: Again, I will just add my
19 objection. That calls for speculation by the witness.

20 MR. WAHOSKE: Sure, Dave, just trying to
21 prompt his memory.

22 A. I couldn't answer that.

23 Q. The retort building, do you recall what that
24 referred to? Again, I guess I would help your
25 recollection perhaps by referring you to Reilly Exhibit

1 9 and the area labeled "retorts," State's Exhibit 9.
2 It's also separately labeled as "retort" on Reilly
3 Exhibit 1 and I imagine it's on Reilly Exhibit 115 as
4 well. I think that might be Building Number 25 on
5 Reilly 115.

6 MR. McDONALD: The question outstanding
7 to the witness is do you remember or can you describe
8 what the retort building is, is that correct?

9 MR. WAHOSKE: Yes, and I was showing him
10 these things in case that would help him remember.

11 A. Building 25 was a building into which the
12 material, the timbers to be treated, were moved onto
13 railroad cars, special railroad cars, and that building
14 could be sealed and heated and pressure treated. The
15 treating material was brought to a very high
16 temperature in this building, and then the timbers were
17 brought to a high temperature, the treating material,
18 and then the timbers caused it cool. This had the
19 effect of sucking the treating material into the timber
20 and Building 25, we would have called it Building 25,
21 but you called it retort building. It would be
22 Building 25, yes, I recall that building in general.

23 Q. Do you know -- \

24 MR. McDONALD: Maybe so the record is
25 clear, I think Mr. Longman is referring to Reilly

1 Exhibit 115 when he talks about Building 25.

2 MR. WAHOSKE: Thank you.

3 BY MR. WAHOSKE:

4 Q. Do you recall either or all of the tar pit,
5 the API separator and the retort building being given
6 special attention?

7 A. It would have had more consideration than a
8 sturdy and less complicated structure but, again, I
9 don't know what you mean by "special attention." It
10 was just again part of the job, but it is heavier and
11 heavy specialized construction.

12 Q. Well, I guess what I was wondering was why,
13 if you know, why Mr. McPhee in this memo would refer to
14 those three as having been given special attention?

15 MR. COYNE: I would object, Mike, to the
16 form of the question which really asks the witness to
17 speculate as to what Mr. McPhee meant when he wrote the
18 memo.

19 MR. McDONALD: I make the same objection.
20 I think we are calling for a lot of speculation on Mr.
21 Longman's part and also for him to speculate on what
22 other people may have been meaning and thinking. Maybe
23 to move this along I will say same objection if we have
24 some more of these questions in the next few minutes.

25 MR. WAHOSKE: That's fine. I asked if

1 he know why Mr. McPhee said they were given special
2 attention. It is entirely possible he could have
3 recalled something from those meetings as to why that
4 phrase would have been used. If you can't recall I
5 think that's the response.

6 MR. McDONALD: I think you are asking
7 him to speculate about the thought processes of Mr.
8 McPhee. The witness can answer if it's possible for
9 him to do so, but I would like to have that objection
10 stand.

11 MR. WAHOSKE: So noted.

12 A. Well, I merely have -- they beat me to it
13 here by about 10 seconds this time. Again, I repeat
14 the same thesis or follow the thesis I had before, what
15 was special in somebodyelse's mind would be just
16 routine in mine, after all, I have been negotiating
17 this project for a year. There wasn't any special
18 problems. They weren't problems at that time, they
19 were just procedures that I had thought out and I was
20 going to see that they were working all right.

21 Q. Let me refer you to Paragraph 3 of that same
22 memo. "One of the employees of Reilly Chemical and Tar
23 showed us several wells. Two of the wells could not be
24 found although the general area is known. One well may
25 be found in the removal of a concrete slab. However,

1 this well is supposedly very shallow and operated with
2 a hand pump." Do you recall being shown any wells by
3 employees of Reilly Chemical and Tar?

4 A. No, I do not.

5 Q. Do you remember either being shown or being
6 told about a well that might have been covered by a
7 concrete slab?

8 A. I do not recall that.

9 Q. The fourth paragraph, I guess, says, "The
10 other well is in the vicinity of the Wheeler Bridge
11 office and served Blacktop service. It is said to be
12 in the area of the Wheeler office." Do you know where
13 they mean by Wheeler office on any of our exhibits here?

14 A. Where is the exhibit?

15 Q. The big map.

16 A. You have an exhibit here that involves this
17 red line. What exhibit number was that?

18 MR. McDONALD: 143, I believe.

19 MR. WAHOSKE: I think that's Exhibit A
20 to 143.

21 MR. McDONALD: The original shows the
22 red line best I think.

23 A. This group of buildings in here which you
24 were asking me about, one was referred to as a pole
25 barn, the other as a warehouse, and another one of the

1 buildings said Wheeler office, that office building
2 here, it's on that exhibit, not on a document that you
3 gave me that I hadn't seen before.

4 Q. I think those buildings are drawn in on
5 Reilly 115, which is this map, if I could find the
6 right part of the map.

7 A. They are drawn in on one of these -- they are
8 shown on one of these exhibits.

9 Q. Maybe right down there, sir.

10 A. Here.

11 Q. And that, as far as you would know anyway,
12 what they were talking about in terms of a Wheeler
13 office?

14 A. That is the Wheeler office.

15 Q. Do you remember any wells in that vicinity?

16 MR. McDONALD: Excuse me. Maybe again,
17 so the record is clear, Mr. Longman was pointing to
18 Deposition Exhibit 115 and he was pointing to several
19 buildings indicated on that exhibit close to the arrow
20 marked north and about halfway up the document.

21 BY MR. WAHOSKE:

22 Q. Do you recall any discussion of a well, in
23 the vicinity of that office?

24 A. No.

25 Q. Do you remember whether Saint Louis Park

1 personnel inspected the site from time to time during
2 the course of the demolition?

3 A. I remember the foreman talking about Saint
4 Louis Park inspection personnel coming to the site. I
5 do not recall seeing Saint Louis Park inspection
6 personnel on the site while the project was underway,
7 in fact, at any time.

8 Q. And as I remember, you at least right now,
9 don't recall any of the wells being identified to you?

10 A. No. I was given a plan sheet, which you have
11 seen here, and in which your exhibit is a copy and on
12 that plan sheet are shown two wells. I knew about and
13 I recall wells from that plan sheet but I do not recall
14 having seen them on the site.

15 Q. We may have asked this yesterday, and pardon
16 me if I did, do you recall what precautions if any were
17 taken to keep wells intact on the site?

18 A. Nothing specific. The foreman on the job
19 knew that we were not to damage any wells, not to
20 damage a water line. We don't go any further than that,
21 we tell him not to touch them.

22 Q. Is there anything done to insure that that
23 doesn't happen as a rule?

24 A. Well, he sees to it that equipment does not
25 get within damaging distance of that well, nor that

1 anyone will touch those wells or in any way interfere
2 with them.

3 Q. Would you mark them somehow or anything like
4 that?

5 A. Those are very large wells. They would be
6 obvious on the site, the pump -- there would be a large
7 casing. There would normally be -- this casing would
8 be topped in concrete, a concrete base for a pump that
9 sat on top of the casing. Our people have worked
10 around wells for years, they are very costly, very
11 valuable and if you are told not to damage a well you
12 don't damage it because that might hurt you to the tune
13 of \$100,000 if you had to repair it or replace it.
14 They are very costly. You preserve it.

15 Q. Were there ever wells that are not so obvious?

16 MR. McDONALD: I am going to object to
17 that question, I guess the generality of that. Can you
18 make it any more specific?

19 BY MR. WAHOSKE:

20 Q. Sure. In the course of your general
21 operation, in terms of demolition, you have spoken of
22 the procedures used to keep wells intact by your
23 employees and you said, when I asked first are they
24 marked in any way to assure that they be kept intact,
25 you said in general they are obvious concrete bases,

1 pumps on them with large casings, et cetera. I was
2 wondering whether in the course of demolition work you
3 have run across wells that are not obvious in that same
4 fashion?

5 A. I have not.

6 Q. Do you recall wells being marked in any way,
7 either at the Reilly site or in the course of other
8 demolition work?

9 A. No special way.

10 (At this time RTC Deposition Exhibit
11 150 was marked for identification by the
12 Court Reporter.)

13 BY MR. WAHOSKE:

14 Q. Mr. Longman, next I am going to give you
15 Reilly Exhibit 150 and ask if you can identify it
16 either from Reilly Exhibit 150 or the original Reilly
17 150 is a copy of originals that are contained in the
18 Bolander materials provided to us pursuant to the
19 subpoena.

20 A. Exhibit 150 is a photocopy of an envelope to
21 Ben Longman at Carl Bolander & Sons Company from
22 Webster Lumber Company.

23 Q. Does the date appear on the envelope stamp,
24 August 24, 1972?

25 A. Yes.

1 Q. There seems to be some handwriting on the
2 envelope, can you identify that?

3 A. The name "Herb Finch" is on the envelope and
4 the telephone number and a few calculations of some
5 kind.

6 Q. Do you recognize the handwriting?

7 A. Yes, I do.

8 Q. Do you know whose it is?

9 A. The name Herb Finch and the phone number
10 below it is my handwriting. Some of these numbers are
11 my handwriting. I am not certain that the numbers that
12 are immediately to the right of Herb Finch's name, I am
13 not certain whether that is my handwriting, it very
14 well could be.

15 Q. Why don't you take a moment to examine the
16 contents of that envelope which I believe are
17 represented in Reilly Exhibit 150 by other photocopied
18 pages. My question will be why were these sent to you?

19 A. I would have to speculate to why these
20 pictures were sent to me. They are taken in 1929.
21 They show construction, foundations as they appeared,
22 they could be photographed at that time and they were
23 sent to me subsequent to the start of demolition. It
24 may be that I had asked Mr. Finch if he had any old
25 drawings or pictures that would help us to identify

1 what we would be encountering.

2 Q. These are labeled as pictures of the Saint
3 Louis Park plant?

4 A. Saint Louis Park plant in 1929.

5 Q. Why would these pictures be helpful to you?

6 A. They show -- some of them show foundations,
7 what is below grade, that we were to remove, that we
8 could only guess at previously.

9 Q. Let me refer --

10 A. That is why I think they were probably sent
11 to me. They are sent subsequent to the signing of the
12 contract. If he would have sent them to me prior to
13 the signing of the contract it would have been a little
14 more money.

15 Q. Let me refer you also to three other items
16 which you pulled out of that packet, the envelope, they
17 would be Page 2 -- photocopies of them are Page 2 of
18 Reilly 150, they appear to be three business cards, one
19 of Thomas Reiersgord, one of Webster Wood Preserving
20 Company with Herbert L. Finch's name on it and one of
21 Richard A. Brooks, Supervisor of Zoning and Inspection,
22 Saint Louis Park, Minnesota, Department of Protective
23 Inspection. Is that what they are or appear to be?

24 A. You have described these business cards.

25 Q. Do you know why those were included?

1 A. I do not believe that they would have been in
2 that envelope -- included in that envelope.

3 Q. You mean originally?

4 A. Originally.

5 Q. But they were in the envelope as produced to
6 us yesterday by Bolander from their records?

7 A. Yes, they were.

8 Q. Page 3, I guess, of Reilly 150 is a photocopy
9 of a note dated 8-23-72, which reads, "Ben, please
10 return to me when finished. Thanks, Herb." It doesn't
11 look like they were returned. Do you know first off
12 why -- do you recall any conversation or anything that
13 indicated why he wanted these back?

14 A. No, I do not.

15 Q. Do you know why they weren't returned?

16 A. I forgot about them. They were in the file.
17 I forgot about the job, just put the file away, we were
18 through with it.

19 Q. Now, that you have looked at it again and
20 thought about it, do you have any recollection of how
21 you actually used them, if you did?

22 A. I would -- I normally would have given them
23 to the foreman to take a look at to help him locate
24 what was underground and how it was structured to help
25 him in his work, planning his work.

1 (At this time RTC Deposition Exhibit
2 151 was marked for identification by the
3 Court Reporter.)

4 BY MR. WAHOSKE:

5 Q. Mr. Longman, I will next give you what's been
6 labeled as Reilly 151 and ask you if you would read
7 through it, please. For the record, it appears to be a
8 letter to Mr. T. J. Ryan from H. L. Finch dated
9 September 8, 1972.

10 A. All right.

11 Q. Could you tell me whether the office building
12 and the garage were attached maintenance shop and would
13 that be referred to in Paragraph 1 of that letter? The
14 letter states, "The current status of the demolition is
15 as follows; buildings remaining are the office building,
16 the garage with attached maintenance shop."

17 A. Well, the office is what is listed on Exhibit
18 115 as Building Number 1.

19 Q. Is that this building apparently on State's
20 Exhibit Number 9 labeled "office"?

21 A. Yes.

22 Q. And in terms of the garage and attached
23 maintenance shop, does that appear to be State's
24 Exhibit 9, the buildings labeled "Black Smith Shop"
25 and "garage" and located very near the office? Do you

1 think that's what that is or do you know?

2 A. The garage. I remember the office but I do
3 not remember that garage and attached maintenance shop.

4 Q. Do you remember whether that was the status
5 of the demolition around first week in September?

6 A. No, I do not.

7 Q. The next paragraph says, "The remaining two
8 large projects will be the dock and the cistern." Is
9 the cistern, as far as you know, is it your
10 understanding that that's the tar cistern that we
11 referred to earlier?

12 A. That is my recollection.

13 Q. Is there anything else that you recall being
14 referred to as the cistern on the project?

15 A. No.

16 Q. Do you know what the dock would have been?

17 A. Well, down near the retort building I think
18 there was a dock. I think that must be what is being
19 referred to here as dock.

20 Q. Do you have a recollection as to whether
21 these were projects that were remaining to be done near
22 the end of the demolition as opposed to the beginning?

23 A. We may have changed the sequencing for some
24 reason. The plant was supposed to have been cleared
25 out, as I recall, the first of June or the first of

1 July, but obviously it was not because the office was
2 apparently still occupied, according to this memorandum.
3 The maintenance shop was still retained in use for some
4 reason. So it may be that Reilly Tar & Chemical was
5 slower getting out of the site than -- was slower
6 phasing out their operations than was scheduled in the
7 beginning. We may have seen fit to change the
8 scheduling of our work as we went along, see like we
9 did after we got into the project.

10 Q. Do you recall now though whether or not these
11 were the parts of the project that were left toward the
12 end as opposed to toward the beginning?

13 A. No, I do not.

14 Q. I guess now referring to the fifth paragraph,
15 the last one, "Generally speaking the last week was
16 spent mainly in the removal of railroad trackage and
17 the hauling of fill from the outside to level off the
18 area around the retorts. The retort building with
19 retorts was recessed and he has brought this up to
20 level. I was surprised to see him bring in outside
21 fill but apparently Bolander has a job in the vicinity
22 that made it easy to bring the fill into our property
23 and dispose of it. The fill looked satisfactory to me."
24 Do you know what the writer is referring to there in
25 terms of bringing in outside fill?

1 A. We would have been hauling sand or gravel in
2 to fill depressions or low areas on the site, is what
3 he is saying.

4 Q. Do you remember that happening as opposed to
5 using fill from on the site?

6 A. No, I do not.

7 Q. Do you remember whether there were any other
8 Bolander jobs in the vicinity of the Reilly plant
9 around that time?

10 A. No, I do not.

11 Q. Would that have been a common practice of the
12 way Bolander operated if they had two jobs near each
13 other and one had fill to give and the other needed
14 fill to haul between jobs?

15 A. That is standard practice in the trade.

16 (At this time RTC Deposition Exhibit
17 152 was marked for identification by the
18 Court Reporter.)

19 BY MR. WAHOSKE:

20 Q. I am going to hand you now what has been
21 marked as Reilly Exhibit 152 and ask if you could read
22 through the first paragraph of it. For the record,
23 this appears to be a letter to Mr. R. E. McAdams from
24 H. L. Finch dated September 11, 1972. The first
25 paragraph reads, "The inventory at Saint Louis Park has

1 now been completely disposed of. The piling we had
2 remaining has been taken over by the Carl F. Bolander &
3 Sons wrecking crew in lieu of any payment for the
4 disposal of rubbish such as rotten skids, scrap lumber
5 and miscellaneous debris that was accumulated over and
6 above our agreement for the demolition of the plant."
7 Do you recall any of the items talked about such as
8 rotten skids and miscellaneous debris that involved
9 something beyond the agreement?

10 A. I have some recollection of a storage area
11 where there was raw stock, that is railroad ties,
12 untreated railroad ties and timbers over in an area,
13 and some treated ties and rails that were part of
14 inventory that was not considered in our work and I
15 would guess that that inventory was cleaned out there
16 was rubbish and debris over in that area that they
17 asked us to remove. It would appear, if this is
18 correct, there was a trade off. Since we used piling
19 in our business we always carry some in inventory, it
20 could have been a trade off that was made based on a
21 situation of that kind.

22 Q. Pardon me for not knowing, but what is the,
23 piling that he is referring to? What is piling?

24 A. Steel or timber that you drive into the
25 ground to make for support and for pile timbers, cranes

1 driving piles, driving timbers into the ground or
2 downtown steel into the ground, those are piles

3 (At this time RTC Deposition Exhibit
4 153 was marked for identification by the
5 Court Reporter.)

6 BY MR. WAHOSKE:

7 Q. Mr. Longman, I am now going to hand you what
8 has been marked as Reilly Exhibit 153. I believe this
9 is a copy of a document provided to us by Bolander in
10 response to the subpoena yesterday. I would ask if you
11 could identify it for us, please?

12 A. This is a letter from Carl Bolander & Sons
13 Company in the City of Saint Louis Park, attention of
14 Mr. Chris Cherches, dated October 20, 1972 signed by B.
15 F. Longman.

16 Q. Is that your signature?

17 A. Yes.

18 Q. Let me refer you first to Paragraph 2 which
19 reads, "Lengthly employee strikes and an especially wet
20 season have delayed operations so that we are not
21 proceeding on the schedule planned." Do you recall
22 having looked at this now the lengthy employee strikes
23 referred to in this letter?

24 A. I do not recall the strike as taking place at
25 that particular time. We did -- there was a strike

1 back in that period some time or other but --

2 Q. The strike that you do recall, do you
3 remember how it affected your operations?

4 A. Well, it would have shut us down completely.
5 My job would have been picketed and office and yard
6 entrances would have been picketed, as I recall.
7 Bolander is a fully unionized company and a strike by
8 whoever struck, I don't recall what union, it would
9 have had the effect of shutting us down.

10 Q. And the demolition work ongoing at the time
11 would have simply stopped at whatever phase it was in
12 when the strike began?

13 A. That's right. I do not recall what union I
14 said was on strike, probably the Operating Engineers,
15 that operate our equipment.

16 Q. Are they also called the 49ers?

17 A. 49ers.

18 Q. The next phrase there, "An especially wet
19 season has delayed operations." Do you recall what you
20 meant by an especially wet season?

21 A. Spring and summertime, it must have been
22 doing a lot of raining.

23 Q. Do you have a recollection of how that
24 affected the work at the Reilly site?

25 A. It was open area outside work. When it's

1 raining the employees won't work. You don't ask them
2 to work, you don't want them to work. It's hazardous
3 work. If it's too wet and slippery you don't want them
4 to work. You have muddy conditions, you can't move the
5 equipment around.

6 Q. Was there a problem with water on the ground
7 at the site that affected your work?

8 A. There were low areas off to the west. I do
9 not recall whether water was accumulating there or not.

10 Q. Do you recall any flooding occurring at the
11 site during your demolition project?

12 A. No, I can't recall it. My letter says, "An
13 especially wet season," it would indicate that there
14 was some. That would indicate it. And the site was
15 not level or sloping, so I would expect there would be
16 a low wet area but I do not recall.

17 Q. The next paragraph, "We request your approval
18 to submit to you a performance bond adequate in amount
19 and satisfactory in form to guarantee completion in the
20 event the work has not been completed by final closing
21 date." Do you recall discussing that with anyone
22 before you wrote this letter to the City?

23 A. Not outside of our company. I would have
24 discussed it within the company, within the Bolander
25 Company, and possibly I discussed it with the City of

1 Saint Louis Park, but I do not recall it. In fact, I
2 do not even recall specifically now discussing it with
3 anybody even within our company. No, I do not recall
4 that.

5 Q. Do you know what is referred to there by
6 final closing date?

7 A. When we would have completed the job, had it
8 accepted, submitted a final invoice.

9 Q. Now, let me refer you for a moment back to
10 Reilly 142 which is Reilly 143, which I believe is a
11 copy of the agreement between you and Reilly and I
12 would refer you to Page 3, Paragraph 10, which states
13 there, "The Contractor shall begin work on or before
14 July 1, 1972 as may be arranged between the parties,
15 and the work shall be completed before October 1, 1972."
16 In your letter, I believe to Saint Louis Park, it is
17 dated October 20, 1972, do you think that is the
18 closing date referred to?

19 A. What do you mean? You are referring to
20 October 1st final closing date?

21 Q. I guess what I am trying to find out is what
22 you meant by final closing date in paragraph 3 of your
23 October 20 letter. It maybe would also help you if I
24 referred you to Reilly Exhibit 144, which is the
25 agreement for purchase of real estate between Reilly

1 and Saint Louis Park. Can you find that one or have
 2 you? It may be helpful. Look on page -- I guess it's
 3 Page 6 of that document. Paragraph 13 reads, "Damages
 4 for Delay of Closing. In the event this sale is not
 5 closed on or before December 15, 1972 --" and then it
 6 goes on. Would that be the closing date that you were
 7 referring to?

8 A. I cannot answer your question. I don't know
 9 just what date would be involved in that closing date.
 10 Ordinarily I would think in terms of the contract the
 11 final closing date would have been October 1, but
 12 strikes, reasons for delay of contract, especially wet
 13 seasons, conditions, are understood to be reasons for
 14 delay. Just what I had in mind here as final closing
 15 date I can't answer your question.

16 Q. Well, let's look down at the next paragraph
 17 then back on Reilly 153, that's the letter we are
 18 referring to, "The only work which might be remaining
 19 would be the removal of some railroad ties and some
 20 area clean-up." Are the railroad ties items that were
 21 part of the trackage that was around there or were
 22 these ties that were left by Reilly in the storage yard
 23 area?

24 A. They were part -- these would -- we would be
 25 removing them. They were part of the railroad ties.

1 The site was not level, it drained off just to the
2 south. There was a low area back in that direction and
3 I would say the weather and wet conditions have been a
4 factor that those were probably under water or in mud,
5 a situation of this kind where we simply could not get
6 in to get at them to remove them and then grade and
7 level the area. Essentially an impossible working
8 condition having developed on the site. There wouldn't
9 be really -- as of October 20 there would not be winter
10 conditions that would cause this to shut down, it would
11 not remove them and finish, it would have to be
12 flooding or something of this kind in that low area
13 where it was such that we simply could not get at it.

14 Q. Some area clean-up is also referred to. Do
15 you know what that would have involved?

16 A. Well, I would have to guess but I would
17 expect it to be a clean-up, shaping up of the same area,
18 but I don't recall specifically.

19 Q. The next paragraph, "An arrangement of this
20 kind should remove concerns on the part of the buyer
21 and seller as to site clearance requirements and assure
22 them there transaction can be finalized as scheduled."
23 Do you know to whom you were referring as buyer and
24 seller?

25 A. Well, I would have been referring to the City

1 of Saint Louis Park, Reilly Tar & Chemical.

2 Q. Do you think you were referring to, when it
3 says, "Transaction can be finalized as scheduled,"
4 to that -- I think it was Paragraph 13 of the Purchase
5 Agreement talking about the closing date being December
6 15?

7 A. No, I don't know whether or not I even knew
8 their closing date at that time, but I must have been --
9 must have had some conversation with the parties
10 involved, got some indication that maybe this would be
11 satisfactory.

12 (At this time RTC Deposition Exhibit
13 154 was marked for identification by the
14 Court Reporter.).

15 BY MR. WAHOSKE:

16 Q. Next I am going to hand you a document marked
17 Reilly Exhibit 154, Mr. Longman, and that I believe is
18 also a copy of a letter produced to us yesterday by
19 Bolander pursuant to subpoena and I would ask if you
20 can identify it for me, please?

21 A. This is a letter from "Carl Bolander & Sons
22 Company to the City of Saint Louis Park, attention Mr.
23 Chris Cherches, Referenced Demolition at Republic
24 Creosote Plant, dated December 6, 1972".

25 Q. Are those your initials at the bottom?

1 A. And this letter is initialed by B.F. Longman,
2 that's my handwriting.

3 Q. This letter is directed to the attention of
4 Mr. Chris Cherches. Do you recall dealing with him in
5 connection with the Reilly site operation?

6 A. I do not recall ever having talked with Mr.
7 Cherches. I may have, but correspondence involving
8 this subject probably I would have been told to direct
9 it to his attention. I may have talked with him on the
10 phone, but I do not recall doing so and I do not recall
11 visiting with him at his office.

12 Q. The first paragraph says, "October 20, 1972,
13 we requested your approval of our submitting to you a
14 performance pond with respect to the above project if
15 not completed by December 15, 1972." Does that help
16 you remember whether or not the closing date you were
17 referring to in your October 20 letter was that
18 December 15 date recited in the Purchase Agreement?

19 A. No.

20 Q. Do you recall any discussions with anybody
21 from Saint Louis Park between writing that October 20
22 letter and this December 6 letter?

23 A. I cannot recall any discussions.

24 Q. Referring you down to Paragraph 3, "All work
25 has been completed except tie hauling and clean-up."

1 These would be, I presume, the same items we were
2 referring to in connection with the October 20 letter?

3 A. Yes.

4 Q. Did you hear back from Saint Louis Park in
5 connection with these two requests?

6 A. Yes, we must have.

7 Q. You don't recall offhand?

8 A. I do not recall specific communications or
9 correspondence. There is something in the file, I
10 believe, that indicates that we finally closed out or
11 finished out in May or June or April or something of
12 the following year and our company, if I recall, again
13 from the file or discussion, did furnish a bond of some
14 kind so that that bond would have been handled by other
15 people in the company and I probably really was not in
16 communication after this letter. Maybe I was, maybe I
17 was not, but in an incidental way.

18 Q. Do you know whether Saint Louis Park or
19 officials thereof went out and inspected the site prior
20 to accepting the bond from you?

21 A. I do not know.

22 Q. Do you know who might know that in your
23 company?

24 A. I believe Ken Moe is the most likely person
25 to know.

1 Q. Well, we will ask him.

2 A. The job is right in their backyard, the
3 inspectors are driving around there all the time anyway,
4 officials. I think they just automatically would know
5 and inspect in the course of their travels around town.

6 (At this time RTC Deposition Exhibit
7 155 was marked for identification by the
8 Court Reporter.)

9 BY MR. WAHOSKE:

10 Q. Mr. Longman, I am now going to hand you what
11 has been marked as Reilly Exhibit 155. I direct your
12 attention to Paragraph C thereof. For the record,
13 Reilly 155 appears to be -- it's labeled, "Council
14 Minutes, December 18, 1972." It is one page thereof
15 and I believe it's a page from council minutes of the
16 City of Saint Louis Park. Paragraph C to which I have
17 directed to Mr. Longman's attention reads,
18 "Clean-up - Republic Creosote Area. The City manager
19 explained that clean-up work being done by Bolander
20 Company had been delayed and they requested that they
21 put up a \$5,000 cash bond for approximately \$2,000
22 worth of work that was made to be done. It was moved
23 by Councilman Fleetham, seconded Councilman Heltzer,
24 To accept the \$5,000 cash bond. The motion carried six
25 to nothing. Councilman Grace was not present." Were

1 you present at that meeting?

2 A. No.

3 Q. Do you know whether anyone from Bolander
4 would have been present at that meeting?

5 A. No, I do not know.

6 Q. Was that meeting discussed with you by the
7 City Manager either before or after it occurred?

8 A. Not to my recollection.

9 (At this time RTC Deposition Exhibit
10 156 was marked for identification by the
11 Court Reporter.)

12 BY MR. WAHOSKE:

13 Q. Mr. Longman, I am going to next hand you what
14 has been marked as Reilly Exhibit 156 and ask if you
15 could identify that for me, please?

16 A. That's a letter, City of Saint Louis Park,
17 B.F. Longman at Bolander Company, dated December 19,
18 1972, in reference demolition work, Republic Creosote
19 area."

20 Q. Does it appear to be signed on behalf of
21 Chris Cherches?

22 A. Yes.

23 Q. Do you recall receiving this letter?

24 A. No, I do not.

25 Q. Do you --

1 A. I do not recall. There was a letter that
2 this is in our file, I do not recall receiving it.

3 Q. I don't remember if this one is in your file
4 or not. Dave --

5 MR. WAHOSKE: Dave, do you recall?

6 MR. McDONALD: I don't believe this is
7 in our file.

8 BY MR. WAHOSKE:

9 Q. If I can refer you to the first paragraph of
10 that letter. Well, first, do you have any particular
11 reason to believe you did not receive this letter?

12 A. There is a copy of a check -- well, I have no
13 reason to question that the letter came to Carl
14 Bolander and his company, but it could have been
15 handled by someone else in the company.

16 Q. Let me refer you to the first sentence,
17 "The City will accept a cash bond in the amount of
18 \$5,000 to ensure completion of the clean-up work at the
19 Republic Creosote property, now owned by the City of
20 Saint Louis Park." The date of this is December 19,
21 1972 which is after the closing date that we have been
22 referring to of December 15. Do you recall whether or
23 not after December 15 Bolander regarded itself as
24 working for Saint Louis Park on the property as opposed
25 to Reilly Tar?

1 A. I always thought we were working for Reilly
2 Tar & Chemical.

3 Q. Let me refer you down to a few sentences
4 later on there which begins -- well, let me keep going,
5 I guess, from that same point. "It is my understanding
6 that only minor clean-up remains in addition to removal
7 of some railroad ties and tackage. The City will
8 accept a cash bond to ensure proper performance of this
9 agreement and I would presume that you will be in
10 contact with the Republic Creosote attorney, Tom
11 Reiersgord, relative to this matter and to your
12 obligations to the Reilly Tar & Chemical Company under
13 the contract." Do you recall contacting Mr. Reiersgord
14 concerning the suggestion in this letter?

15 A. No, I do not.

16 Q. It goes on to say, "Perhaps some formal
17 agreement may have to be made to relieve you of your
18 obligation of the Company and to ensure proper
19 completion of the contract with Saint Louis Park. I
20 trust that you will be in contact with Mr. Reiersgord
21 and we can proceed, at your convenience, in resolving
22 this matter." Do you have a recollection of how this
23 matter was resolved?

24 A. No.

25 (At this time RTC Deposition Exhibit

1 157 was marked for identification by the
2 Court Reporter.)

3 BY MR. WAHOSKE:

4 Q. Mr. Longman, I will now hand you what has
5 been marked 157, and ask you if you can produce it.
6 This is a copy of a document produced to us by Bolander
7 in response to the subpoena.

8 A. Exhibit 157 is a photocopy of Carl Bolander &
9 Sons Company invoice to Reilly Tar & Chemical. It's
10 dated 12-20-72.

11 Q. Is this --

12 A. For "furnish and equipment and labor to
13 perform demolition and related work project completed,
14 \$136,000, less previous estimates, \$106,000, balance
15 \$30,000."

16 Q. Would this be the final bill, so to speak,
17 sent to Reilly in connection with the project?

18 A. This would be a final invoice of the project.

19 (At this time RTC Deposition Exhibit
20 158 was marked for identification by the
21 Court Reporter.)

22 BY MR. WAHOSKE:

23 Q. Next I am going to hand you, Mr. Longman,
24 what has been marked as Reilly Exhibit 158 and ask you
25 to take a moment to read through it. It is a labor

1 agreement in respect to demolition, removal and
2 clean-up work. It is signed on Page 3 thereof by the
3 City of Saint Louis Park and Reilly Tar & Chemical
4 Corporation.

5 A. All right.

6 Q. Have you had a chance to read through it, Mr.
7 Longman?

8 A. Yes.

9 Q. Do you recall having seen a copy of this
10 agreement in the late year of '72 or early '73?

11 A. No, I do not.

12 Q. Do you recall having seen it at any time
13 prior to just reading through it now?

14 A. No.

15 Q. Were you aware that it existed?

16 A. No.

17 Q. Let me refer you to Page 2 of this document.
18 About halfway down that first uncompleted paragraph
19 there is a statement that says, "That the City and Carl
20 Bolander & Sons have reviewed the work yet undone and
21 have agreed that the cost --" et cetera. Do you recall
22 a review having taken place between the City and Carl
23 Bolander & Sons of the work yet undone at the site?

24 A. I don't recall reviewing that.

25 Q. Do you know who might know about that from

1 the Bolander side?

2 A. Well, Kenny might. Again, maybe they merely
3 said we reviewed it, but actually did not, that is in
4 the sense of a formal review. I may have driven by.
5 Kenny may have driven by. Saint Louis Park officials
6 may have driven by. In effect that was a review. It
7 was just that incidental.

8 Q. But you don't know right offhand?

9 A. No, I do not.

10 Q. The next paragraph, in the middle of that
11 sentence there is the phrase, "The City has been
12 guaranteed performance of the balance of the work yet
13 to be done by virtue of the bond posted with the City
14 by Carl Bolander & Sons." Do you recall as having
15 regarded the City as the, I don't know, boss, if you
16 will, of the project after this point?

17 A. No, I do not consider the City as having been
18 the boss. We were always working for Reilly Tar &
19 Chemical.

20 Q. The next page, at the top paragraph labeled
21 1, "The City accepts as completed the obligation for
22 demolition, removal and clean-up work which was to be
23 performed by Reilly Tar & Chemical Corporation pursuant
24 to Paragraph 5 of the agreement for the purchase of
25 real estate dated April 14, 1972." Do you know whether

1 the City conducted any inspection before it accepted
2 this work as completed?

3 A. No.

4 Q. Again, would Ken Moe be someone who might be
5 able to help us in that regard?

6 A. He might, just might. I can't say that he
7 would.

8 Q. Down in Paragraph 2 then, "In consideration
9 of the posting of the cash bond of \$5,000 with the City
10 by Carl Bolander & Sons, in the making of final payment
11 to said company by Reilly, the City will look to Carl
12 Bolander & Sons for any remaining demolition, removal
13 and clean-up work that needs to be done on the subject
14 premises to complete the requirements of Paragraph 5 of
15 said agreement for purchase of real estate dated April
16 14, 1972." Was this discussed by you with the City,
17 that you recall, these provisions?

18 A. No, I do not recall discussing this. We have
19 posted a certified check in the amount of \$5,000, it is
20 double the possible cost of the work yet to be done for
21 Reilly Tar & Chemical. There wasn't any question we
22 would complete our obligation to Reilly Tar & Chemical.

23 Q. Once Reilly had paid you the final amount and
24 your payment had been completed by Reilly, did you then
25 regard yourselves as working for Reilly or working for

1 the City?

2 A. Working for Reilly.

3 Q. Why was that?

4 A. We had a contract with Reilly. We put up
5 \$5,000 to obtain the release of \$30,000 a few months
6 earlier.

7 Q. As to the \$5,000 performance bond, that would
8 have been between you and the City?

9 A. That \$5,000 certified check is made payable
10 to the City of Saint Louis Park.

11 (At this time RTC Deposition Exhibit
12 159 was marked for identification by the
13 Court Reporter.)

14 BY MR. WAHOSKE:

15 Q. I am going to hand you now, Mr. Longman, what
16 has been marked as Reilly Exhibit 159. This is also a
17 copy of a document provided us by Carl Bolander & Sons
18 in the materials submitted pursuant to the subpoena and
19 ask if you could identify that for us, please?

20 A. A letter from Carl Bolander & Sons Company,
21 dated February 2, 1973 to the City of Saint Louis Park
22 to the attention of Mr. Chris Cherches, City Manager,
23 reference demolition work of old Republic Creosote
24 Plant and his letter of January 24, 1973. Well, it's
25 got the name Roger E. Erickson secretary of Carl

1 Bolander & Sons Company. That's the sender of the
2 letter.

3 Q. The text of this letter reads, "We agree to
4 complete full compliance with the work agreement
5 guaranteed by our \$5,000 cash bond on or before June 1,
6 1973." That statement of agreement represents an
7 agreement between Bolander and the City of Saint Louis
8 Park?

9 A. It would be, in my opinion, a guarantee -- a
10 certification that we would complete our obligation to
11 Reilly Tar & Chemical.

12 Q. And the certification runs between you and
13 the City of Saint Louis Park?

14 A. Posted a cash bond with the City of Saint
15 Louis Park, but we have an obligation to Reilly Tar &
16 Chemical. Reilly Tar -- we are their contractor, their
17 agent, we in turn have an obligation to the City of
18 Saint Louis Park. We are guaranteeing it for Reilly
19 Tar & Chemical. Yes, I tack that down with our
20 obligation as to Reilly Tar & Chemical, as their
21 contractor.

22 Q. You indicated before Mr. Erickson is still
23 around and is still secretary I think?

24 A. Yes.

25 Q. Do you know whether the work referenced here

1 was in fact completed by June 1 of 1973?

2 A. No, I do not.

3 Q. Who would know that in your company?

4 A. Kenny Moe might, Roger Erickson might, Bill
5 Bauer might, they might recall.

6 Q. I don't remember seeing in the documents in
7 that pile anything that evidenced completion of the
8 work necessarily or return of the cash bond by the City.
9 Do you recall any documents from having looked through
10 them?

11 A. Showing the return of this check.

12 Q. Yes.

13 A. No, I did not handle that check.

14 Q. Okay.

15 A. I didn't see the check. I do not recall
16 seeing it. I am not an officer of the corporation.
17 That would have been taken care of by Roger Erickson
18 and probably David Bolander as officers of the
19 corporation.

20 MR. WAHOSKE: Dave, maybe you can help
21 me. Do you remember anything in there?

22 MR. McDONALD: I don't think there is
23 anything in there of how it was finally disposed of.
24 There is no record of the check being returned by the
25 City of Saint Louis Park. I assume it was but I don't

1 see anything in the file on it.

2 MR. WAHOSKE: That's what I also didn't
3 see and I was wondering if I missed it.

4 MR. McDONALD: There is nothing in the
5 file about that.

6 MR. WAHOSKE: By the file you mean the
7 documents that you --

8 MR. McDONALD: Produced.

9 BY MR. WAHOSKE:

10 Q. Do you know, Mr. Longman, if the City
11 inspected and approved the work when you were finished
12 with it?

13 A. Not in my presence.

14 Q. Do you know whether you were there or not? I
15 mean, do you have any remembrance?

16 A. I do not have any specific recollection.

17 Q. Did you view the site when it was finished?

18 A. I do not recall doing so.

19 Q. Would it be normal in your practice as the
20 estimator to look at the project once it's finished?

21 A. It would be normal. Just a minute, let me
22 off the record.

23 (At this time a discussion was held off the
24 record.)

25 BY MR. WAHOSKE:

1 Q. Mr. Longman, if you could summarize for me
2 what you have just explained to us all off the record
3 in terms of your hospitalization during the time period
4 we have been talking about and how that may have
5 affected your ability to recall that time period.

6 A. Well, the period we have been talking about
7 here for the last few minutes in connection with the
8 last few exhibits.

9 Q. That would be late '72?

10 A. Which would be late '72 and into '73, in
11 those years. During the summer or spring or summer I
12 guess it was of 1973 I was hospitalized for depression.
13 I was on memory interfering drugs for a long period of
14 time. My recollections of that period are very vague,
15 I was a very ill person. At the time I nearly died
16 from a kidney infection that was produced by the drugs
17 and so, as a result, apparently of that illness, my
18 memory for that area is erratic. Some days it's better
19 than others and some periods are blank entirely. I
20 have no recollection of going to the hospital, a vague
21 recollection of leaving the hospital.

22 Q. Thank you. I do only have a few more items.

23 MR. McDONALD: Off the record.

24 (At this time a discussion was held off the
25 record.)

1 (At this time RTC Deposition Exhibit
2 160 was marked for identification by the
3 Court Reporter.)

4 BY MR. WAHOSKE:

5 Q. Mr. Longman, next is Exhibit 160. I would
6 ask you to read through the three short paragraphs
7 there. It appears to be a letter to Mr. Chris Cherches,
8 City Manager City of Saint Louis Park, from Thomas
9 Reifersgord, dated February 14, 1973. You have already
10 indicated to me that you did not see the agreement
11 that's referred to in that letter which presumably is
12 the agreement between Reilly and Saint Louis Park
13 concerning the completion of the demolition. I am
14 wondering specifically though about Paragraph Number 2
15 which states, "I have been advised by the company that
16 based on this agreement they will pay the balance due
17 to Bolander forthwith." Do you recall whether they did
18 that, the company that is?

19 A. That the company, based on this agreement
20 will pay the balance, that the Reilly Tar & Chemical
21 will pay the Bolander Company.

22 MR. McDONALD: Maybe I ought to just
23 interrupt a minute. I think when you are talking to
24 yourself there, Ben, it is probably being reflected by
25 the court reporter. Just so you are aware that that

1 might be happening, just so we don't confuse the record
2 too much.

3 BY MR. WAHOSKE:

4 Q. That's all right. Mr. Longman, I am just
5 wondering, did Reilly Tar & Chemical pay you the
6 balance on this agreement?

7 A. I have never heard to the contrary and if
8 they had not paid it I certainly would have had Mr.
9 Erickson on my back to find out why, get it paid.

10 Q. Okay.

11 A. That's the responsibility of the estimator
12 and the project manager.

13 Q. Would you normally have been notified when
14 the final payment came in or not?

15 A. Yes, I would normally have been notified.

16 Q. Do you recall anyone from -- you have already
17 talked about Saint Louis Park in this respect, but from
18 the State of Minnesota or any agency thereof being on
19 the site or inspecting it during the course of the
20 demolition?

21 A. No, I have no recollection.

22 Q. I think you have just told me that you don't
23 recall making a final inspection of the site and I
24 presume that means you do not recall the condition of
25 the site when it was finally left by Carl Bolander &

1 Sons?

2 A. I do not recall the condition of the site.

3 Q. Could you help us by naming people that you
4 might remember from Carl Bolander & Sons who would have
5 worked on the demolition project? We already have
6 obviously your name, Mr. William Bauer and Ken Moe. We
7 have been told that Gordy Ess, who began as a Reilly
8 employee, finished as a Bolander employee, apparently?

9 A. Yes. In addition to Ken Moe and Bill Bauer,
10 a Reilly employee by the name of Gordon Ess, who later
11 became an employee of ours -- I believe became an
12 employee of ours on the job when he was released by
13 Reilly Tar & Chemical. Other than that I do not recall
14 any of the equipment operators, laborers or other
15 persons who were there.

16 Q. Has, to your knowledge, Bolander done any
17 work on the site since that time of the project?

18 A. Not to my knowledge.

19 Q. Has Bolander since that time done any work
20 for the City of Saint Louis Park as an entity?

21 A. Yes, we have done some demolition work that I
22 know about. I haven't handled it, Kenny Moe has
23 handled it. Several of those items, whether or not --
24 these are small demolition projects. Whether we have
25 had larger projects I don't know.

1 Q. Have you done any work for the State on
2 demolition projects?

3 A. Yes.

4 Q. Do you recall what sort of projects those
5 were?

6 A. Over the years?

7 Q. Just general.

8 A. Yes, we wrecked hundreds of houses, major
9 buildings in connection with the highway construction
10 program.

11 Q. Any work for Hopkins?

12 A. Yes, we have worked for the City of Hopkins.

13 Q. Just again, in general, what sort of work
14 have you done for them?

15 A. Well, I wouldn't have recollections of
16 demolition work, not specific projects. Other
17 departments, I think we have had some grading work but
18 then I don't recall specifically.

19 Q. Do you recall working with Ward Barton of
20 Reilly Tar on this project?

21 A. Since I have been looking at the file and
22 seeing the name Ward Barton I recollect him as a person
23 that I worked with a little bit. I had some contact
24 with him in connection with the job.

25 Q. If I remember right, Mr. Bauer yesterday

1 thought that the Reilly employee who identified wells
2 for them, at least at one point, was likely either
3 Gordon Ess or Ward Barton. Do you have any knowledge
4 about that?

5 A. No, I don't.

6 MR. WAHOSKE: Off the record for a
7 moment.

8 (At this time a discussion was held off the
9 record.)

10 MR. WAHOSKE: Mr. Longman, I thank you
11 for your patients and honesty, and I think that's all I
12 have right now.

13 (At this time a brief recess was taken.)
14

15 CROSS-EXAMINATION

16 BY MR. COYNE:

17 Q. Mr. Longman, as you know I represent the
18 State of Minnesota and I have a few questions for you
19 today. As I am referring to Minnesota Exhibit Number 9,
20 as well as to Reilly Tar Exhibit Number 1, those
21 exhibits appear to indicate that approximately the
22 northern half of the property was used for storage of
23 ties and other lumber as well as the northern area
24 which is marked "open" on Minnesota Exhibit 9. The
25 lower half of the two exhibits, Minnesota 9 and Reilly

1 Tar 1, indicate that the operations of Reilly Tar were
2 conducted in that southern half of the site, being the
3 wood treating operation as well as the refining
4 operation. Is that a fair characterization of those
5 two exhibits, as far as you are concerned?

6 A. Yes, it's a fair description.

7 Q. The agreement for clearing land and several
8 other documents have made mention of fill material and
9 the use of small masonry and earth materials as fill
10 material. Do you recall that?

11 A. Yes.

12 Q. My question is whether the fill material that
13 was used on the Reilly Tar site was placed in the
14 northern half of the property; that is, were there
15 filling activities in the area shown as "open," for
16 example, on Minnesota 9, or were the filling activities
17 limited to the southern half of the site where the wood
18 treating and refining operations had been conducted?

19 A. I do not recall that there was any need for
20 fill in the areas that you have described as storage
21 areas. Fill was needed in the areas of structure
22 removal primarily.

23 Q. And by "structure removal" do you mean
24 buildings as opposed to the removal of trackage?

25 A. The removal of buildings and structures

1 associated with trackage since it is the retort
2 building and some other.

3 Q. So if I understand you correctly, for example,
4 in the northern half of the property where there are
5 some tracks shown, the removal of those tracks would
6 not necessitate fill?

7 A. That is correct.

8 Q. I have another topic of examination. I would
9 like to refer you to Reilly Tar Exhibit Number 150.
10 You will notice, Mr. Longman, on the second page that a
11 business card appears for Thomas E. Reiersgord, and as
12 you know, Mr. Reiersgord is an attorney representing
13 Reilly Tar and has been present throughout your
14 examination over these two days. Mr. Reiersgord's name
15 appears again on Reilly Tar Exhibit Number 156. In
16 Exhibit 156, which is a letter dated December 19, 1972
17 from Chris Cherches to you, Mr. Cherches mentions that
18 he presumes you will be in contact with the Republic
19 Creosote's attorney Tom Reiersgord. And then again in
20 Reilly Tar Exhibit Number 160 you will note that this
21 is a letter from Thomas E. Reiersgord to Mr. Cherches,
22 the City Manager. My question is did you meet with Tom
23 Reiersgord in the course of the demolition activities
24 or in the course of the development of the contract for
25 the demolition activities and if so what were the

1 circumstances of your meetings with him?

2 A. I do not recall these meetings or a meeting,
3 but yesterday when we sat down at the conference table
4 Mr. Reiersgord looked familiar to me and introduced
5 himself, we introduced each other. Since he did look
6 familiar to me I must have met with him at some time or
7 other or several times. I do not specifically recall
8 those meetings.

9 Q. So, as I understand, you have no recall of
10 having met him, although you believe under the
11 circumstances of the correspondence and your
12 recollection of his face that you probably did meet
13 with him but you have no specific recall of having met
14 with him?

15 A. That is correct.

16 Q. My final question, is it your belief that the
17 wells located on the Reilly Tar facility were left
18 intact without any damage by Bolander Company during
19 the course of its demolition activities?

20 A. Yes, it is my belief they were left
21 untouched -- undamaged. I believe that because we have
22 no claims, no conferences that I recall, and no claims
23 submitted for damage to those wells.

24 MR. COYNE: I have no further questions.

25

CROSS-EXAMINATION

BY MS. MARTIN:

Q. Mr. Longman, my name is Kathleen Martin and I represent the City of Saint Louis Park in this litigation. Do I correctly understand that you do not recall seeing any flooding of the Reilly Tar property while you were on the plant site during the period of demolition that occurred in '72 and 1973?

A. I have been sitting here and thinking about it. I have some vague recollection that there was water collected at one time down in what would be the southwest area. This is just very vague. It could be something else mixed in that's bringing that to my mind and it could be the references that are made here to wet weather. It seems to me that there was a little drainage swail down in through this area and that the water did collect down in here at one time.

Q. And are you pointing to the southwestern tip of the Reilly Tar site on Reilly Tar Exhibit 115?

A. Yes, I am.

Q. And that would be the first two or three curvature markings on that map?

A. In that area, yes.

Q. In that area those are the lines indicating trackage in that area?

1 A. Yes, they are.

2 Q. And do I correctly understand that you were
3 not on the Reilly Tar site during the demolition
4 project on a daily basis?

5 A. That is correct, I was not there on a daily
6 basis.

7 Q. And when you did visit the site do I
8 correctly understand that you may have been there for a
9 limited portion of the day, perhaps, would it be less
10 than an hour?

11 A. An hour would be a long visit. It would
12 probably be less than that in most instances. There
13 may have been periods when I stayed there longer than
14 that for some specific purpose but I would have no
15 purpose in being there normally for any other than a
16 short period to check progress and answer any questions
17 associated with the work that I should observe on the
18 site or observe -- conditions that I should observe.
19 It was not my part to run the job. I was to negotiate
20 the job and I estimated the job and to maintain contact
21 with the customer and to see that job was in progress.

22 MR. McDONALD: Might I just interrupt
23 for a moment? Off the record.

24 (At this time a discussion was held off the
25 record.)

1 BY MS. MARTIN:

2 Q. At the commencement of the demolition work on
3 the Reilly Tar site in 1972 did you provide
4 instructions to Bill Bauer or Ken Moe in regard to how
5 the demolition work should proceed on the Reilly Tar
6 site?

7 A. I cannot -- again, I cannot recall specific
8 discussions or specific times at which we talked, but I
9 am certain that we would have gotten together and
10 discussed procedures and initial operational program or
11 initial sequencing as a basis on which to get started.
12 I would have discussed, in the ordinary course of
13 affairs, my particular concerns with respect to safety,
14 our particular obligations with respect to environment
15 and to the people around the area, to the City.

16 Q. In addition to those types of concerns, did
17 you provide them with instructions as to what
18 particular structures were to be demolished or what
19 particular materials were to be removed from the site?

20 A. Yes, I would have. We would have discussed
21 what the contract called for, discussed in detail what
22 the contract -- what the contract called for and what
23 our obligations were.

24 Q. Do you recall ever supplying Mr. Moe or Mr.
25 Bauer with a copy of the contract?

1 A. No, I don't think I did.

2 Q. Would the instructions you gave them in
3 regard to the demolition work they were to perform on
4 the site be in conformance with the agreement between
5 Reilly Tar and Bolander & Sons, which I believe is
6 Reilly Tar Exhibit Number 143?

7 A. My instructions would have been in
8 conformance with that contract document.

9 Q. Would that be true of any supplementary
10 instruction you would have given them after they had
11 commenced work on the project?

12 A. It would have been true unless there had been
13 some minor variances that had been -- supplemental
14 agreements or changes had been made between Bolander
15 and Reilly Tar & Chemical and I do not recall any
16 supplemental agreements. We have no copy of any and I
17 do not recall any supplemental -- any changes of any
18 consequence. There could be minor on the job changes
19 from day-to-day or week to week but no changes in the
20 basic contract that I recall.

21 Q. And that would be true as far as the contract
22 provisions for leaving the wells intact and not
23 tampering with the wells?

24 A. That would be true with respect to the wells.

25 Q. And would that also be true with respect to

1 the contract provision requiring that all non fill
2 materials be removed from the site and deposited
3 outside of the City of Saint Louis Park?

4 A. Yes, that would be true with respect to those
5 materials.

6 Q. To the best of your knowledge was the work
7 performed by Bolander and Company on the Reilly Tar
8 site in accordance with the contract between Bolander
9 and Reilly Tar & Chemical Company, which is embodied in
10 Reilly Tar Deposition Exhibit 143?

11 A. Yes, it was.

12 Q. Do you have any reason to believe that either
13 Bill Bauer or Ken Moe did not carry out your
14 instructions as to the work to be performed on the
15 Reilly Tar site?

16 A. No, I have good reason to believe -- every
17 reason to believe they faithfully carried out my
18 instructions.

19 Q. Do you consider Mr. Bauer and Mr. Moe to be
20 trusted employees of Bolander and Company?

21 A. Yes, they are both -- they are each long time
22 trusted employees of Bolander.

23 Q. Is it a correct summary of your prior
24 testimony, Mr. Longman, that you were not personally
25 involved in any negotiations between Reilly Tar and the

1 City of Saint Louis Park in regard to clean-up of the
2 Reilly Tar site?

3 A. I was not involved in any three-way
4 discussions with the City of Saint Louis Park or Reilly
5 Tar & Chemical and Bolander Company. Does that cover
6 the question?

7 Q. Yes, it does.

8 A. Okay.

9 Q. And is it a correct summary of your prior
10 testimony that you were never involved personally in
11 any negotiations between Reilly Tar and the City of
12 Saint Louis Park in regard to the City's purchase of
13 Reilly Tar's property located in Saint Louis Park?

14 A. I was never directly involved in those
15 discussions.

16 Q. Do you know, Mr. Longman, if anyone from
17 Bolander was ever involved in any negotiations between
18 Reilly Tar and the City of Saint Louis Park with
19 respect to clean-up of the site other than yourself?

20 A. I do not know of anyone from Bolander Company
21 that was involved in any of those discussions.

22 Q. Do you know if anyone other than yourself
23 from Bolander, who was involved in discussions between
24 the City of Saint Louis Park and Reilly Tar in regard
25 to the City's purchase of Reilly Tar property located

1 in the City of Saint Louis Park?

2 A. You lost me a little bit there in the
3 beginning. Can you repeat it?

4 Q. I certainly can. Do you know if anyone from
5 Bolander, other than yourself, participated in
6 negotiations between the City and Reilly Tar in regard
7 to the City's purchasing of Reilly Tar property?

8 A. I do not recall that I was involved in
9 negotiations between Reilly Tar and the City of Saint
10 Louis Park. I was not involved in those negotiations.

11 Q. Okay.

12 A. My testimony, I think, has indicated that I
13 was incidental somehow or other to those negotiations
14 but I was not involved in what seems to be the thrust
15 of your question.

16 Q. A couple of the exhibits that you have been
17 shown today are copies of invoices sent by Bolander to
18 Reilly Tar and Chemical for work performed on the
19 Reilly Tar site. Do you recall if Bolander sent all of
20 its invoices for work performed on the Reilly Tar site
21 to Reilly Tar & Chemical Company?

22 A. I do not send out the invoices but I have no
23 reason to believe that there would be any occasion for
24 sending invoices for that project to anyone or any
25 entity other than Reilly Tar & Chemical.

1 Q. Do I correctly understand, Mr. Longman, that
2 Bolander was not a party to a separate agreement with
3 the City for clean-up work other than what Bolander did
4 for Reilly Tar?

5 MR. McDONALD: I think I am going to
6 object to that question that it calls for a legal
7 conclusion by Mr. Longman. I guess he can try to
8 answer it if he can, but I think part of that question
9 may require Mr. Longman to render a legal opinion on
10 whether or not there was in fact some kind of legal
11 agreement between the City of Saint Louis Park and Carl
12 Bolander & Sons. But if you can answer that then go
13 ahead.

14 A. The question is there was no agreement in my
15 understanding between Carl Bolander & Sons Company and
16 the City of Saint Louis Park for demolition at the
17 Reilly Tar & Chemical site. There was then an
18 agreement or there was a guarantee, an agreement that
19 involved a guarantee, that we would complete our
20 contract obligations for that demolition, contract
21 obligations that we had with Reilly Tar & Chemical.

22 Q. And throughout the period of time, is it true
23 that you always perceived that your obligation was to
24 Reilly Tar & Chemical Company?

25 A. Our obligation in my mind was as to Reilly

1 Tar & Chemical, contract obligations.

2 MS. MARTIN: Thank you, Mr. Longman. I
3 have no further deposition questions.

4

5 DIRECT EXAMINATION

6 BY MR. McDONALD:

7 Q. Ben, I just have a few questions and we might
8 speed this up a little bit if you pull from the
9 Deposition Exhibits the following documents. Exhibit
10 133?

11 A. I have 133.

12 Q. 135.

13 A. All right.

14 Q. 136.

15 A. All right.

16 Q. 138.

17 A. All right.

18 Q. Is 140.

19 A. All right.

20 Q. And Exhibit 143.

21 A. Okay.

22 Q. Referring to Reilly Exhibit 133, which is a
23 letter of February 1, 1972 from yourself to Mr. Al
24 Engen of the City of Saint Louis Park, that letter
25 refers in Paragraph 4 to a statement, "remove and

1 dispose of decomposable wrecking debris." First, a
2 preliminary question. Is this the first piece of
3 correspondence that is in the Carl Bolander file as far
4 as you know?

5 A. The first piece of correspondence, I believe,
6 to the City of Saint Louis Park.

7 Q. That's fine. You wrote that letter, is that
8 correct?

9 A. Yes, I wrote this letter.

10 Q. And what did you mean by, "Dispose of
11 decomposable wrecking material"? Can you expand on
12 what you meant by saying that?

13 A. We were -- this would become our property.
14 Debris -- the wrecking debris would become our property
15 and disposed at our disposal site.

16 Q. Outside of Saint Louis Park and off the site?

17 A. Remove and dispose of decomposable debris.
18 We would have to dispose of it at an authorized
19 disposal site which would be out of the Saint Louis
20 Park area.

21 Q. And that's what you intended to mean by that
22 statement in that letter, is that correct?

23 A. Yes.

24 Q. So as early as February 1, 1972 you had, in
25 your mind at least, to dispose of all decomposable

1 wrecking material off of the site and outside of the
2 City of Saint Louis Park, is that correct?

3 A. Yes.

4 Q. Did the decomposable wrecking debris include
5 what we have been talking about as residue?

6 A. It was intended to include that debris.

7 Q. Turning to Deposition Exhibit 136, which is
8 again a letter that you wrote, dated March 3, 1972 to
9 Mr. Herb Finch at Reilly Tar & Chemical, can I refer
10 you to Paragraph 5 in that letter on the first page,
11 the second sentence. That sentence reads, "Wood and
12 other decomposables shall be removed." Again, what did
13 you mean by that statement?

14 A. Some of the wrecking debris that was suitable
15 for fill. That which was not suitable, such as wood
16 and other decomposables, would be removed from the site
17 and disposed of elsewhere.

18 Q. Again it would be removed off the site and
19 out of the City of Saint Louis Park?

20 A. That is correct.

21 Q. And that's what you meant by that statement?

22 A. Yes.

23 Q. Referring you to Deposition Exhibit 138,
24 which is another letter of yours to Mr. Herb Finch
25 again, and referring you specifically to Paragraphs

1 7 and 8, what did you mean by those two statements?

2 A. That debris which was not suitable for fill
3 material would be removed off site out of Saint Louis
4 Park to our demolition disposal site.

5 Q. And residues to?

6 A. Remove and dispose of off site. The same
7 would apply to residues, all material.

8 Q. Referring you to Deposition Exhibit 140,
9 which again is another letter by you to Richard Brooks,
10 the City of Saint Louis Park, in Paragraph 4 again you
11 said, "Dispose of large masonry and decomposables off
12 site." Did you again mean to take all decomposables
13 off the site in Saint Louis Park and to some site
14 located outside of the City of Saint Louis Park?

15 A. Yes.

16 Q. Finally, on Finch 143, Page 2, Paragraph B,
17 7, 8 and 9, and this is the agreement between Reilly
18 Tar and Carl Bolander & Sons, you are talking there
19 again about disposing off the site and in fact the
20 terms "outside of Saint Louis Park" are used. Again
21 did you mean by these paragraphs to remove all these
22 materials off the site outside of Saint Louis Park to
23 some site located outside of the City and off the site?

24 A. Yes.

25 Q. So is it fair to say that beginning at least

1 as early as February 1, 1972 and continuing right up
2 and until the signing of the agreement on April 13,
3 1972 you intended to dispose of decomposable debris,
4 residue, off the site and outside the City of Saint
5 Louis Park?

6 A. Yes.

7 Q. Now, referring you to Reilly Deposition
8 Exhibit 135. In the upper left-hand corner of that
9 document are two handwritten words, "leave wells," is that
10 correct?

11 A. "Leave wells," is handwritten.

12 Q. Is that your handwriting?

13 A. Yes.

14 Q. Can you tell me what you meant by those two
15 words?

16 A. That we would not fill the wells, we would
17 not damage the wells, that we would not -- I am trying
18 to think of the word, that we would not abandon the
19 wells as specified by State law, that we don't do any
20 work with the wells.

21 Q. And did that also mean to you that you would
22 leave the wells intact and not disturb them in any way?

23 A. We would leave the wells as they were when we
24 came to the site.

25 Q. And, finally, referring you again to

1 Deposition Exhibit Exhibit 143, the agreement for
2 clearing land, this time on Page 3, Paragraph 5, this
3 was a paragraph of the contract between you and Reilly
4 Tar for the clearing of the Reilly Tar site. Maybe you
5 want to take a second to read that and then would you
6 tell me how you interpreted that paragraph?

7 A. That paragraph means that we are not to have
8 anything to do with the wells other than to protect
9 them from damage.

10 Q. And as far as you know, did you abide by this
11 contract language and leave the wells intact and not
12 damage them in any way?

13 A. Yes.

14 Q. And if I might just refer to back to some of
15 my earlier questions about the removal of decomposables.
16 As far as you knew did you remove all the decomposables
17 from the Reilly Tar site and dispose of them outside of
18 the City of Saint Louis Park?

19 A. To the best of my knowledge.

20 Q. Changing gears a little here, I want to ask
21 just a few brief questions about your knowledge of the
22 Carl Bolander & Sons records. There have been a few
23 questions earlier on in your deposition and other
24 depositions about records kept by Carl Bolander & Sons.
25 Could you explain to me your knowledge of records prior

1 to 1975 and what is the current status of whether or
2 not they exist?

3 A. I have heard David Bolander say that he
4 didn't want any records retained prior to 1975 other
5 than selected instances, what they were I don't know.
6 What those instances were I don't know; but essentially,
7 as I understand, the records prior to 1975 have been
8 disposed of. Of course, during the period in which
9 Bolander changed locations from Minneapolis to a new
10 office building in Saint Paul -- I should add that I
11 have not been directly involved in the disposal of
12 those records or the sorting out of them or whatever
13 has taken place. It is just no longer my area of
14 operation.

15 MR. McDONALD: I have no further
16 questions.

17

18 RECROSS-EXAMINATION

19 BY MR. WAHOSKE:

20 Q. Just a couple, Mr. Longman. One involves the
21 statements you were just making about what you heard
22 David Bolander say in regard to saving records or not
23 saving them. Do you recall when you heard him say that?

24 A. Oh, that was last fall I think.

25 Q. Do you recall the context of that

1 conversation?

2 A. Not really. I just heard it.

3 Q. Was it a discussion of record retention?

4 A. It wasn't a discussion with me. I just heard
5 him say this in another little office area as I walked
6 by.

7 Q. Do you know who he was talking to at the time?

8 A. I believe he was talking to Roger Erickson.

9 Q. Was this at the time you were moving your
10 offices?

11 A. Getting ready to move.

12 MR. McDONALD: Just for the record, I
13 don't mean to interrupt you for too long a time, but I
14 just wanted to be clear on the record that by asking
15 these questions about the record keeping of Carl
16 Bolander & Sons I did not mean to imply that I or Carl
17 Bolander & Sons personnel will attempt to use this as
18 an excuse for not diligently searching all of our
19 offices and records. We will try to do that. I am
20 just trying to explain why records prior to 1975 may no
21 longer exist.

22 MR. WAHOSKE: Sure. I am just exploring
23 the context of it.

24 BY MR. WAHOSKE:

25 Q. It seems to me that you said that the context

1 of that statement or the substance of it was that he
2 didn't want records kept prior to '75 except in
3 selected instances?

4 A. No.

5 Q. Do you know whether or not the documents that
6 have been saved would be something that is a selected
7 instance?

8 A. I don't know whether it was or not or whether
9 it was selected or whether they just hadn't gotten
10 around to those particular ones and thrown them away.

11 Q. When you were discussing with Mr. Coyne
12 whether or not you were familiar with Mr. Reiersgord,
13 you indicated, it seems to me, as I recall, that when
14 we began this deposition yesterday he looked familiar
15 to you and you thought you had probably met with him
16 before. Do you know whether you met him him before --
17 by that statement did you mean you might have met with
18 him at sometime prior to the deposition yesterday or
19 sometime within the context of the demolition of the
20 Reilly site?

21 A. Sometime prior to the deposition yesterday.

22 Q. It could have been sometime after the
23 demolition work was completed but before the deposition?

24 A. Yes, it could have been sometime. He looked
25 familiar. His face looked familiar to me.

1 Q. Okay.

2 A. That was the extent of it.

3 MR. WAHOSKE: That's all I have. Anyone
4 else?

5 MR. McDONALD: For the record, Mr.
6 Longman, I am going to advise you that you have the
7 right to read the transcript of your deposition and to
8 sign it and also to make any corrections that the Court
9 Reporter may make. It's our experience that Court
10 Reporters are extremely accurate and you do have the
11 right to waive the reading and the signing. I guess,
12 as your attorney, I would just advise you to waive it,
13 but if you would prefer to read it over you have that
14 right. You will not be allowed to make any substantive
15 changes in what you said these last two days but you
16 will have the right to make any gramatical or other
17 errors that maybe made by the Court Reporter. Do you
18 wish to waive the reading and signing or do you wish to
19 review it before it becomes an official document?

20 THE WITNESS: Will you be reading it?

21 MR. McDONALD: I will, but if you waive
22 the right to reading and signing, I don't believe
23 that's necessary, but you would have a right to do that
24 if you would like to.

25 THE WITNESS: Well, I have no basic

1 feeling at this time that I would wish to or need to
2 read the record.

3 MR. McDONALD: Would you waive your
4 reading and signing then of the deposition? You have
5 to, I guess, officially waive your right to read and
6 sign it or say, "Yes, I would like to read and sign it
7 before it becomes an official document."

8 THE WITNESS: And you are recommending I
9 waive it?

10 MR. McDONALD: I am recommending that
11 you waive, right.

12 THE WITNESS: I will waive.

13 MR. WAHOSKE: I have one more thing just
14 for the record. Mr. McDonald, this is just for the
15 record, but I will ask you to take charge of Reilly
16 Exhibit 114, which is the folder, and the contents of
17 which are the documents which you have provided to us
18 from Bolander pursuant to the subpoena, as you did last
19 night, and to bring them with you to the next
20 deposition or the continuation, I should say, of the
21 Bolander Company depositions which is set for tomorrow.

22 MR. McDONALD: I accept that extreme
23 responsibility.

24

25

1 STATE OF MINNESOTA)
2) SS.
3 COUNTY OF HENNEPIN)

4 Be it known that I took the deposition of
5 BENJAMINE LONGMAN, on the 2nd and 3rd days of May 1983
6 at Minneapolis, Minnesota;

7 That I was then and there a Notary Public in and
8 for the County of Hennepin State of Minnesota, and that
9 by virtue thereof, I was duly authorized to administer
10 an oath;

11 That the witness before testifying was by me first
12 duly sworn to testify the whole truth and nothing but
13 the truth relative to said cause;

14 That the testimony of said witness was recorded in
15 Stenotype by myself and transcribed into typewriting
16 under my direction, and that the deposition is a true
17 record of the testimony given by the witness to the
18 best of my ability;

19 That the reading and signing of the deposition by
20 the witness and the Notice of Filing were waived.

21 WITNESS MY HAND AND SEAL this 4th day of May 1983.

22 _____
23 Kirby A. Kennedy
24 Court Reporter
25